

# Preface 7<sup>th</sup> edition

During the past two years the EU Commission has been active in relaunching positive integration of direct taxes along two main axes, namely mutual assistance and the fight against BEPS. The latter development confirms a trend already visible during the earlier years, namely that international tax coordination under the auspices of the OECD has turned into the indirect engine of positive integration in the European Union.

The failure to reach consensus in the June 2022 Ecofin on the introduction of the global corporate minimum tax proposed directive confirms the extreme difficulties that arise in connection with the unanimity requirement for introducing secondary law of the European Union. The fact that this occurs even in areas on which this is highly desirable and generally accepted leads to wonder whether the tax veto is being still used for reasons that are connected with critical issues affecting national tax sovereignty of EU Member States. The paradox is that some EU Member States raise such issues in the European Union, but not in the framework of global fora of international tax coordination.

The flipside of the persistent crisis in the issuing of secondary law of the European Union in the field of direct taxes is, once more, that judicial interpretation remains the engine of integration and that other supranational policies, such as in particular the one on competition, produce an important indirect impact on taxation within the EU Internal Market. Moreover, tax case law on State aids confirmed in the past two years that some different interpretative standards can be recorded across the various European institutions.

Edition after edition, we reiterate to our readers that the three main pillars of primary EU law affecting taxation, i.e. fundamental rights, fundamental freedoms and the prohibition of state aids cannot provide a systematic approach to all problems of European tax law. In particular, they structurally fail to address tax disparities, which remain evident to all, but approached by none. This impasse makes cross-border activities within the internal market more vulnerable and indirectly favours the ones that remain under the tax jurisdiction of a sole country. Yet, these concerns remain written in the pages of the various editions of our textbook and nothing concretely happens.

The current context has two further major flaws. As for the past, the complexity of EU tax law keeps increasing, making it hard for non-specialised users to navigate through its intricate mazes. Furthermore, and this is something now becoming more visible, the developments in European tax law are so focused on the fight against MNEs not paying taxes that hardly anything is done to recognise the need for intervening in other critical areas. This is for instance the case of the pro-

tection of fundamental rights of taxpayers, almost entirely left to interpretation of fundamental principles of EU law by the CJEU, and of private intermediaries, who are experiencing an exponential growth of compliance obligations by means of secondary law on mutual assistance.

Just like the previous editions, also this seventh edition keeps its concise style and overall size. We strive hard to remain consistent and loyal to our readers, using the traditional selective approach to relevant issues, while securing a complete analysis of the key issues of EU direct taxation.

This edition contains selected relevant information available as of 30 June 2022. It retains all of the features and tools contained in the previous editions (including the final charts, which our readers very much appreciate). In this edition we have also included a list of relevant documents and a selection of reference textbooks on European tax law in five languages, which we found of potential interest to our readers.

The editors and authors are always grateful for comments and suggestions that may further improve the quality and content of forthcoming editions of this textbook. Moreover, we wish to thank *François Barreau*, who assisted us in reviewing the content throughout the entire production process, allowing this seventh edition to be published according to schedule.

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