

1. Record Nr.	UNINA9910795868303321
Autore	Bossuyt Jasper
Titolo	The Legal Status of Extrinsic Instruments for the Interpretation of Tax Treaties
Pubbl/distr/stampa	Amsterdam : , : IBFD Publications USA, Incorporated, , 2022 ©2022
ISBN	90-8722-740-X 90-8722-739-6
Edizione	[1st ed.]
Descrizione fisica	1 online resource (1577 pages)
Collana	IBFD Doctoral ; ; v.61
Soggetti	Double taxation - OECD countries - Treaties - Interpretation and construction International business enterprises - Taxation - Law and legislation - OECD countries - Interpretation and construction Double imposition Double taxation International business enterprises - Taxation - Law and legislation Academic theses. Treaties. Theses et ecrits academiques.
Lingua di pubblicazione	Inglese
Formato	Materiale a stampa
Livello bibliografico	Monografia
Nota di contenuto	Cover -- IBFD Doctoral Series -- Title -- Copyright -- Table of Contents -- Foreword -- Abbreviations -- Chapter 1: General Introduction -- 1.1. Preliminary observations -- 1.2. Fundamental problem and relevance of the research project -- 1.3. Research question -- 1.4. State of the art -- 1.5. Research hypothesis -- 1.6. Research objective -- 1.7. Scope of the research -- 1.8. Methodology and structure of the research project -- 1.9. Research questions -- Part 1: Extrinsic Instruments -- Chapter 2: Introduction to Part 1 -- Chapter 3: Model Conventions and Their Commentaries -- 3.1. Purpose and role of the commentaries to model conventions -- 3.1.1. Introduction -- 3.1.2. League of Nations -- 3.1.2.1. Brief history of the work of the League of Nations and its Fiscal Committee -- 3.1.2.2. 1927 and 1928

model conventions -- 3.1.2.3. 1933 and 1935 Model Conventions -- 3.1.2.4. 1943 Mexico and 1946 London Model Conventions -- 3.1.2.5. Interim conclusion -- 3.1.3. Organisation for European Economic Co-operation (OEEC) -- 3.1.3.1. Brief history of the work of the OEEC leading up to the Four Reports -- 3.1.3.2. Objectives of the Fiscal Committee -- 3.1.3.3. Methodology -- 3.1.3.4. Deviations from the consensus article -- 3.1.3.5. Legal foundation -- 3.1.3.6. Interim conclusion -- 3.1.4. Organisation for Economic Co-operation and Development (OECD) -- 3.1.4.1. 1963 OECD Draft Double Taxation Convention on Income and Capital -- 3.1.4.1.1. Objectives of the Fiscal Committee -- 3.1.4.1.2. Methodology -- 3.1.4.1.3. Legal foundation -- 3.1.4.2. 1977-2017 Model Double Taxation Convention on Income and Capital -- 3.1.4.2.1. Objectives of the Committee on Fiscal Affairs -- 3.1.4.2.2. Methodology -- 3.1.4.2.3. Legal foundation -- 3.1.4.3. Interim conclusion. 3.1.4.4. Multilateral Instrument to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting -- 3.1.5. Interim conclusion -- 3.2. Types of commentaries -- 3.2.1. Introduction -- 3.2.2. League of Nations -- 3.2.2.1. 1927-1928 Model Conventions -- 3.2.2.1.1. Background to a term or provision -- 3.2.2.1.2. Alternative provisions -- 3.2.2.1.3. Description of a term or provision -- 3.2.2.1.4. Purposive clarifications -- 3.2.2.1.5. Examples of a term or provision -- 3.2.2.1.6. Compelling clarifications -- 3.2.2.1.7. Dissenting opinions -- 3.2.2.2. 1933 and 1935 Model Conventions -- 3.2.2.3. 1943 Mexico and 1946 London Drafts -- 3.2.2.3.1. Background information on a term or provision -- 3.2.2.3.2. Alternative provisions -- 3.2.2.3.3. Descriptive clarifications -- 3.2.2.3.4. Purposive clarifications -- 3.2.2.3.5. Effects of a term or provision -- 3.2.2.3.6. Examples of a term or provision -- 3.2.2.3.7. Recommendatory clarifications -- 3.2.2.3.8. Compelling clarifications -- 3.2.3. Organisation for European Economic Co-operation -- 3.2.3.1. Background information of a term or provision -- 3.2.3.2. Alternative provisions -- 3.2.3.3. Descriptive clarifications -- 3.2.3.4. Purposive clarifications -- 3.2.3.5. Effects of a term or provision -- 3.2.3.6. Examples of a term or provision -- 3.2.3.7. Deviations -- 3.2.3.8. Recommendatory clarifications -- 3.2.3.9. Compelling clarifications -- 3.2.3.9.1. Confirming the ordinary meaning -- 3.2.3.9.2. Widening the ordinary meaning -- 3.2.3.9.3. Confining the ordinary meaning -- 3.2.3.10. Special cases -- 3.2.3.10.1. Dividend and interest income -- 3.2.4. OECD -- 3.2.4.1. 1963 OECD Draft Double Taxation Convention on Income and Capital -- 3.2.4.1.1. Background information to a term or provision -- 3.2.4.1.2. Descriptive clarifications -- 3.2.4.1.3. Alternative provisions. 3.2.4.1.4. Purposive clarifications -- 3.2.4.1.5. Effects of a term or provision -- 3.2.4.1.6. Examples of a term or provision -- 3.2.4.1.7. Recommendatory clarifications -- 3.2.4.1.8. Compelling clarifications -- 3.2.4.1.9. Reservations -- 3.2.4.1.10. Interim conclusion -- 3.2.4.2. 1977-2014 Model Double Taxation Convention on Income and Capital -- 3.2.4.2.1. Background information of a term or provision -- 3.2.4.2.2. Descriptive clarifications -- 3.2.4.2.3. Alternative provisions -- 3.2.4.2.4. Purposive clarifications -- 3.2.4.2.5. Effects of a term or provision -- 3.2.4.2.6. Examples of a term or provision -- 3.2.4.2.7. Recommendatory clarifications -- 3.2.4.2.8. Compelling clarifications -- 3.2.4.2.8.1. Confirming the ordinary meaning -- 3.2.4.2.8.2. Widening the ordinary meaning -- 3.2.4.2.8.3. Confining the ordinary meaning -- 3.2.4.2.9. Integrated cases -- 3.2.4.2.9.1. Liable to tax -- 3.2.4.2.9.2. Permanent establishment -- 3.2.4.2.9.3. Attribution of profits to permanent establishments -- 3.2.4.2.9.4. Dividend and

interest income -- 3.2.4.2.9.5. Beneficial ownership -- 3.2.4.2.9.6. Preventing tax avoidance -- 3.2.4.2.9.7. Know-how and software -- 3.2.4.2.9.8. Income from employment -- 3.2.4.2.9.9. Entertainer and sportsperson -- 3.2.4.2.9.10. Non-discrimination -- 3.2.4.2.9.11. Mutual agreement procedure -- 3.2.4.2.9.12. Exchange of information -- 3.2.4.2.10. Observations -- 3.2.4.2.10.1. 1977 OECD Commentary -- 3.2.4.2.10.2. 2014 OECD Commentary -- 3.2.4.2.11. Interim conclusion -- 3.2.5. Interim conclusion -- 3.3. References to extrinsic instruments in the OECD Commentaries -- 3.3.1. OECD Transfer Pricing Guidelines -- 3.3.1.1. Purpose and role in light of articles 7 and 9 of the OECD Model -- 3.3.1.1.1. The Carroll Report and the 1933 and 1935 Draft Model Conventions -- 3.3.1.1.2. Section 45 of the IRC and the 1935 Treasury Regulations. 3.3.1.1.3. Articles 7(2) and 9(1) of the OECD Model and their predecessors -- 3.3.1.1.4. 1968 Treasury Regulations -- 3.3.1.1.5. 1979 OECD Report on Transfer Pricing and Multinational Enterprises -- 3.3.1.1.6. 1988 US Treasury "White paper" -- 3.3.1.1.7. 1995 Transfer Pricing Guidelines -- 3.3.1.1.8. 2010 Transfer Pricing Guidelines -- 3.3.1.1.9. 2017 Transfer Pricing Guidelines -- 3.3.1.2. Legal foundation -- 3.3.1.3. References to Transfer Pricing Guidelines in the OECD Commentaries -- 3.3.1.3.1. Arm's length principle between associated enterprises: Article 9 of the OECD Model -- 3.3.1.3.2. Attribution of profits to permanent establishments: Article 7 of the OECD Model -- 3.3.1.3.3. Sample mutual agreement for arbitration: Article 25 of the OECD Model -- 3.3.2. OECD Reports -- 3.3.3. Interim conclusion -- 3.4. Interim conclusion on chapter 3 -- Chapter 4: Implementation of the OECD Commentaries by the Executive Branch -- 4.1. OECD Commentaries as point of reference during treaty negotiations -- 4.1.1. National tax treaty policy -- 4.1.1.1. Recognition of the Commentaries for negotiation purposes -- 4.1.1.2. Recognition of specific commentaries for negotiation purposes -- 4.1.1.3. Recognition of the Transfer Pricing Guidelines and OECD reports for negotiation purposes -- 4.1.1.4. Interim conclusion -- 4.1.2. Guidance conveyed to legislature in view of treaty approval -- 4.1.2.1. Recognition of the OECD Commentaries for negotiation purposes -- 4.1.2.2. Recognition of specific commentaries for negotiation purposes -- 4.1.2.3. Interim conclusion -- 4.1.3. Interim conclusion -- 4.2. OECD Commentaries as instrument for the interpretation of tax treaties -- 4.2.1. Implementation in bilateral instruments -- 4.2.1.1. Treaty or Protocol -- 4.2.1.1.1. General interpretive clause -- 4.2.1.1.1.1. National model conventions -- 4.2.1.1.1.2. Individual tax treaties. 4.2.1.1.2. Specific interpretive clauses -- 4.2.1.1.3. References to Transfer Pricing Guidelines and OECD reports -- 4.2.1.1.4. Interim conclusion -- 4.2.1.2. Other bilateral instruments -- 4.2.1.2.1. Memoranda of understanding/exchange of letters/exchange of notes -- 4.2.1.2.2. Joint Guidance relating to the Belgium-Netherlands Income and Capital Tax Treaty -- 4.2.1.2.3. Competent authority agreement -- 4.2.1.2.4. Interim conclusion -- 4.2.2. Implementation in unilateral instruments -- 4.2.2.1. National tax treaty policy -- 4.2.2.1.1. Recognition of the Commentaries for interpretation purposes -- 4.2.2.1.2. Recognition of specific commentaries for interpretation purposes -- 4.2.2.1.3. Recognition of the Transfer Pricing Guidelines and OECD reports for interpretation purposes -- 4.2.2.1.4. Interim conclusion -- 4.2.2.2. Guidance presented to legislative branch in view of treaty approval -- 4.2.2.2.1. Indifference vis-à-vis the type of clarification and the conformity with the ordinary meaning of treaty terms and provisions -- 4.2.2.2.2. Indifference vis-à-vis the explicit recognition of the Commentaries as an interpretive instrument --

4.2.2.2.3. Divergent and inconsistent recourse to the Commentaries for the interpretation of undefined treaty terms -- 4.2.2.2.4. Transfer Pricing Guidelines and OECD reports -- 4.2.2.2.5. Interim conclusion -- 4.2.2.3. General administrative positions on individual tax treaties -- 4.2.2.4. Individual administrative positions regarding interpretation of tax treaties -- 4.2.3. Interim conclusion -- 4.3. Interim conclusion on chapter 4 -- Chapter 5: Conclusion on Part 1 -- Part 2: Legal Status of Extrinsic Instruments under International Law -- Chapter 6: Introduction to Part 2 -- Chapter 7: Potential Relevant Sources of International Law -- 7.1. Legal status of OECD recommendations and Transfer Pricing Guidelines.
7.1.1. Recommendations as a form of "soft law".

Sommario/riassunto

National tax authorities can express their views in a variety of ways on how tax treaties should be interpreted. As a result, there are unilateral, bilateral and multilateral interpretive instruments that are not - or not necessarily - incorporated into an actual tax treaty, but are "extrinsic" to it. National courts and tax authorities, as well as taxpayers and tax scholars, strongly rely on the OECD Commentaries and Transfer Pricing Guidelines when interpreting tax treaties. Their legal status has been considered one of the major unresolved issues in international tax law. This book thoroughly analyses the legal status of extrinsic instruments under public international law in a critical, integrated and original manner, with the OECD Commentaries and Transfer Pricing Guidelines as central elements. Starting with a detailed historical evolution of model conventions and commentaries, the book empirically studies the OECD Commentaries and their interrelationship with other extrinsic instruments, relying on treaty practices in Belgium, the Netherlands and the United States. It then critically investigates the various methods and concepts offered by public international law to assess their impact on the interpretation of tax treaties. This book offers interpreters refreshing, original and stimulating insights for determining the legal status and role of extrinsic instruments for tax treaty interpretation purposes. Honourable mention for the 2020 Mitchell B. Carroll Prize (IFA) and 2021 EATLP Doctoral Tax Thesis Award (European Association of Tax Law Professors and European Commission).

2. Record Nr.	UNINA990007840630403321
Autore	Dörr, Felicitas
Titolo	Die kunst als gegenstand der kulturanalyse im werk Georg Simmels / von Felicitas Dörr
Pubbl/distr/stampa	Berlin, : Duncker & Humblot, 1993
ISBN	3-428-07802-0
Descrizione fisica	167 p. ; 23 cm
Collana	Sozialwissenschaftliche abhandlungen der görres-gesellschaft ; 21
Disciplina	193
Locazione	FLFBC
Collocazione	301.093 SIMM/S 01
Lingua di pubblicazione	Tedesco
Formato	Materiale a stampa
Livello bibliografico	Monografia