1.	Record Nr. Autore Titolo	UNINA9910795997803321 Sinnig Julia Taxation, Data and Destination : An Analysis of Destination-Based Taxation from the Perspective of Tax Principles and Data Protection
	Pubbl/distr/stampa	Regulation Amsterdam : , : IBFD Publications USA, Incorporated, , 2022 ©2022
	ISBN	9789087227791 9789087227784
	Edizione	[1st ed.]
	Descrizione fisica	1 online resource (401 pages)
	Collana	IBFD Doctoral ; ; v.64
	Soggetti	Corporations
	Lingua di pubblicazione	Inglese
	Formato	Materiale a stampa
	Livello bibliografico	Monografia
	Nota di contenuto	Cover IBFD Doctoral Series Title Copyright Table of Contents Disclaimer Acknowledgements List of Abbreviations Chapter 1: Introduction 1.1. Presentation of the topic and problems 1.1.1. Challenges of the digitalized economy 1.1.2. Tax concerns triggered by digital activities 1.1.3. Requirements for a tax solution 1.2. Questions and objectives guiding this research 1.2.1. Research question 1.2.2. State of the art and merit of the research 1.2.3. Delimitation of the research and methodology 1.3. Structure of the book Chapter 2: The Destination-Based Corporate Tax Proposals 2.1. Introduction 2.2. A broader DBCT: The DBCFT 2.2.1. Rationale behind the DBCFT 2.2.2. Personal and objective scope and taxable base of the DBCFT 2.2.3. Territorial scope: Destination basis 2.2.4. Preliminary justification of the DBCFT to respond to digital tax challenges 2.3. The proposed solution: The DDBCT 2.3.1. Rationale behind the DDBCT 2.3.2. Characteristics of the DDBCT 2.3.2.1. Personal and objective scope 2.3.2.1.1. Digitalized goods or services, including goods and services provided through digitalized means 2.3.2.1.2. User data 2.3.2.1.3. User participation 2.3.2.2. Territorial scope: Destination basis 2.3.2.2.1. Definition of destination 2.3.2.2.2. Localizability of the four options 2.3.2.3. Taxable base and tax rate 2.3.2.4. The use

of thresholds -- 2.3.3. Preliminary justification of the DDBCT to answer the digital tax challenges -- 2.3.4. Distinguishing the DDBCT from other proposals -- 2.4. Conclusion -- Chapter 3: The Reality of the Digitalized Economy: Practical Issues Deduced from Business Models --3.1. Introduction -- 3.2. Historic context of the discussion on the tax challenges of digitalized business models -- 3.3. E-commerce. 3.3.1. Definition of e-commerce -- 3.3.2. Personal data and user participation in e-commerce -- 3.3.3. Tax treatment of e-commerce --3.3.3.1. Taxation today: Application of articles 7 and 5 of the OECD Model -- 3.3.3.2. Taxation under DDBCT and DBCFT -- 3.3.4. Interim conclusion on the taxation of e-commerce -- 3.4. Intermediation services/digital multi-sided markets -- 3.4.1. Definition of intermediation services/digital multi-sided markets -- 3.4.1.1. Online market places and online brokerage services -- 3.4.1.2. Online advertising -- 3.4.1.2.1. Classification of online advertising --3.4.1.2.2. Defining the functioning of online advertising -- 3.4.1.2.3. Examples: Google and Facebook's advertising models -- 3.4.1.3. Online gaming -- 3.4.2. Personal data and user participation in intermediation services and their location -- 3.4.2.1. Online market places and online brokerage services -- 3.4.2.2. Online advertising --3.4.2.3. Online gaming -- 3.4.3. Tax treatment of intermediation services -- 3.4.3.1. Taxation today -- 3.4.3.1.1. Online market places and online brokerage services: Articles 7 and 5 of the OECD Model and article 12A of the UN Model -- 3.4.3.1.2. Online advertising network intermediaries: Articles 7 and 5 of the OECD Model -- 3.4.3.1.3. Online gaming: Articles 7, 5 and 12 of the OECD Model -- 3.4.3.2. Taxation under DDBCT and DBCFT -- 3.4.3.2.1. Online market places and online brokerage services -- 3.4.3.2.2. Online advertising intermediary services -- 3.4.3.2.3. Online gaming services -- 3.4.4. Interim conclusion on the taxation of intermediation services/digital multisided markets -- 3.5. Cloud computing -- 3.5.1. Definition of "cloud computing" -- 3.5.2. Personal data and user participation in cloud computing -- 3.5.3. Tax treatment of cloud computing. 3.5.3.1. Taxation today: Articles 7, 5, 12 and 13 of the OECD Model and article 12A of the UN Model -- 3.5.3.2. Taxation under DDBCT and DBCFT -- 3.5.4. Interim conclusion on the taxation of cloud computing -- 3.6. Conclusion -- 3.6.1. Delimitation of digitalized business models and reliance on personal data and user participation -- 3.6.2. Current taxation of business models: Application of articles 7, 5 and 12 of the OECD Model and article 12A of the UN Model -- 3.6.3. Conclusion on issues regarding the application of DBCFT and DDBCT to the examined business models -- 3.6.3.1. Definition of the "user" --3.6.3.2. Definition of the "destination" -- 3.6.3.3. Open issues with DBCFT and DDBCT -- 3.6.3.3.1. Localization of users under DDBCT --3.6.3.3.2. Association of cash flows with non-paying users under DBCFT -- Chapter 4: Compatibility of a DBCT with DTCs, EU Law and WTO Law -- 4.1. Introduction -- 4.2. Compatibility with DTCs -- 4.2.1. Scope of application of DTCs: Requirements of articles 1-4 of the OECD Model -- 4.2.1.1. Articles 1, 3 and 4 of the OECD Model: Personal scope of application -- 4.2.1.2. Objective scope of application of article 2 of the OECD Model: Taxes covered -- 4.2.1.2.1. Wording of article 2 (1) and (2) of the OECD Model and the definition of "income" --4.2.1.2.2. The distinction between direct and indirect taxes: Turnover and cash flow as taxable bases -- 4.2.1.2.3. Article 2(3) and (4) of the OECD Model: Listed and "identical or substantially similar" taxes --4.2.1.2.4. The system of DTCs: Congruence of the regulatory framework of DTCs and destination based taxes -- 4.2.1.2.5. The role of legislative intent for the gualification as a tax covered under article 2

of the OECD Model -- 4.2.1.2.6. Other design features impacting the qualification of taxes as "taxes covered" -- 4.2.1.3. Interim conclusion. 4.2.2. Relevance of DTCs if DDBCT and DBCFT are not covered by them -- 4.2.2.1. Application of articles 26 and 27 of the OECD Model and reflections on the allocation of taxing powers -- 4.2.2.2. Requirements set by article 24(1) of the OECD Model: Non-discrimination -- 4.2.3. Alternative result: DTCs are applicable to DBCFT and DDBCT - Potential conflicts with substantive DTC provisions -- 4.2.3.1. Principal conflicting provisions: Articles 7 and 5 of the OECD Model -- 4.2.3.2. Other conflicting provisions -- 4.2.3.3. Difficulties in the application of article 23A and B of the OECD Model: Double taxation relief -- 4.2.3.4. Relevance of article 25 of the OECD Model: Mutual agreement procedure -- 4.2.4. Interim conclusion -- 4.3. Compatibility with EU Law -- 4.3.1. General considerations -- 4.3.2. Competences of Member States and the European Union -- 4.3.3. Primary EU law --4.3.3.1. Rules relating to intra-community deliveries of goods --4.3.3.1.1. Adoption of a DBCT by a Member State -- 4.3.3.1.2. Adoption of a DBCT by the European Union -- 4.3.3.2. Fundamental freedoms -- 4.3.3.2.1. Adoption of a DBCT by a Member State --4.3.3.2.1.1. The sectoral application of the DDBCT -- 4.3.3.2.1.2. Turnover as the tax basis of the DDBCT -- 4.3.3.2.1.3. The border tax adjustment of the DBCFT -- 4.3.3.2.2. Adoption of a DBCT by the European Union -- 4.3.3.3. State aid considerations -- 4.3.3.3.1. Adoption of a DBCT by a Member State -- 4.3.3.3.1.1. The sectoral and turnover-based application of the DDBCT -- 4.3.3.3.1.2. The exemption of exports of both DBCTs and the border tax adjustment of the DBCFT -- 4.3.3.3.2. Adoption of a DBCT by the European Union --4.3.4. Secondary EU law -- 4.3.4.1. Compliance with the VAT Directive -- 4.3.4.2. Compliance with the Parent-Subsidiary Directive -- 4.3.5. Interim conclusion -- 4.3.5.1. Primary EU law. 4.3.5.2. Secondary EU law -- 4.4. Compatibility with WTO law -- 4.4.1. General considerations on the applicability of WTO law -- 4.4.2. Article III of the GATT and article XVII(1) of the GATS: Treatment of imports --4.4.3. Articles XVI(1) of the GATT and 3(1)(a) of the ASCM: Treatment of exports -- 4.4.4. Interim conclusion -- 4.5. Conclusion -- 4.5.1. Application of DTCs to DBCFT and DDBCT -- 4.5.2. Interferences of the DDBCT and DBCFT with EU law -- 4.5.3. Interference of the DDBCT and DBCFT with WTO law -- Chapter 5: Compatibility of DDBCT and DBCFT with Data Protection Standards and Related Fundamental Rights -- 5.1. Introduction -- 5.2. The scope of data collection at stake under DBCFT and DDBCT -- 5.3. Application of the Charter -- 5.3.1. General considerations regarding the applicability of the Charter -- 5.3.2. Lessons to be learned on the restriction of data protection rights granted by the Charter -- 5.3.3. Interim conclusion -- 5.4. Application of the GDPR -- 5.4.1. General considerations -- 5.4.2. Scope of application of the GDPR and its limits -- 5.4.2.1. Material and territorial scope of application of the GDPR -- 5.4.2.1.1. Material scope of application of the GDPR -- 5.4.2.1.2. Territorial scope of application of the GDPR -- 5.4.2.2. Limits to the scope of application of the GDPR --5.4.2.2.1. Article 2(2)(a) of the GDPR -- 5.4.2.2.2. Article 2(2)(d) of the GDPR -- 5.4.2.2.3. Interim conclusion -- 5.4.3. Substantive provisions of the GDPR potentially affected -- 5.4.4. Carve-out from the rights protected by the GDPR -- 5.4.5. Articles 5(1)(b) and 6(1)(e) of the GDPR: Purpose limitation -- 5.4.6. Article 11 of the GDPR: Limited obligations under the GDPR if data are pseudonymized -- 5.4.7. Interim conclusion -- 5.5. Application of the ECHR -- 5.5.1. General considerations regarding the applicability of the ECHR. 5.5.2. Lessons to be learned on the restriction of data protection rights

	granted by the ECHR.
Sommario/riassunto	The book analyzes two destination-based corporate tax models, their application to different types of digitalized business models, and their compliance with tax and data protection law frameworks.