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# Klaus Vogel On Double Taxation Conventions

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Corporate Income Taxes under Pressure

Beneficial Ownership in International Tax Law

Basic International Taxation

Schriftenreihe IStR Band 94

Edited By: Ekkehart Reimer, Alexander Rust

.... Vol. 2

A Global Analysis of Tax Treaty Disputes

A Domestic Taxation, Bilateral Tax Treaty and OECD Perspective

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Schriftenreihe IStR Band 108

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a commentary to the OECD-, UN- and US model conventions for the avoidance of double taxation of income and capital : with particular reference to german treaty practice

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Permanent Establishments

Judicial Interpretation of Tax Treaties

Tax Treaties and Domestic Law

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## MARIELA KNOX

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*Corporate Income Taxes under Pressure* Kluwer Law International B.V.

Klaus Vogel on Double Taxation Conventions

*Beneficial Ownership in International Tax Law* Springer

In international tax law, the term 'beneficial ownership' refers to which parties involved in a cross-border transaction are entitled to tax treaty benefits. However, determining beneficial ownership is a complex and often disputed issue, subject to different meanings in different countries. Archival research on its early use in tax treaties and in the developing OECD Model reveals that its meaning has changed dramatically over the decades, leading to new interpretations significantly affecting current tax practice and scholarship. This book, dedicated to establishing how beneficial ownership should ideally be interpreted, compares the use and interpretation of beneficial ownership, both current and historical, in a wide range of national jurisdictions as well as the EU, ultimately shedding a clearer light than has heretofore been available on the meaning of the term. In her very thorough analysis of the application of beneficial ownership, the author touches on such aspects as the following: – historical development of the beneficial ownership requirement as used in tax treaties and in the OECD Model Tax Convention on Income and on Capital; – rules of double taxation conventions; – application of the OECD's Action Plan on Base Erosion and Profit-Shifting (BEPS); – the problem of so-called 'white income'; – use of the substance-over-form principle; – attribution-of-income rules; and – the role of agents, nominees, and conduit companies. Specific analysis of the use and interpretation of beneficial ownership in a domestic law and treaty context in numerous jurisdictions – with particular emphasis on the United Kingdom, Australia, the United States, and Germany – is a major feature of the presentation. As a thorough guide to determining whether a person claiming tax treaty benefits is the true owner – and which parties are excluded from treaty benefits and to what extent – this book will be of immeasurable value to lawyers, tax authorities, policymakers, and other professionals working with taxable international transactions of any kind.

*Basic International Taxation* Kluwer Law International B.V.

A Commentary to the OECD, UN and U.S. Model Conventions for the Avoidance of Double Taxation of Income and Capital, With Particular Reference to German Treaty Practice. Double taxation conventions (DTCs) raise a plethora of interpretational questions for the practitioner and student of tax law. This book provides the answers. An encyclopedic treatise on DTCs, Klaus Vogel on Double Taxation Conventions is a guide to all legal issues DTCs raise and includes information on worldwide case law and commentators' views. The OECD Model Convention serves as the organisational basis for this work. Each chapter focuses on one article of the Convention and provides: the wording of the article and that of the respective articles of the UN and US Models, the official Commentary by OECD, and an extensive discussion by the authors of the legal problems involved. In addition, Klaus Vogel on Double Taxation Conventions offers an account of all German tax treaties, how they differ from the model provisions, and the potential practical impact of such differences. The first two

editions have been used by lawyers, tax advisers, and scholars all over the world. Courts in Canada, Germany, South Africa, and the Netherlands have cited them as authority. This revised edition includes the most recent OECD Model revisions and all recent case law and relevant literature. The authors have rethought many of the problems discussed, further improved their argument, and amended their views where they have been convinced by opponents.

*Schriftenreihe IStR Band 94* Kluwer Law International B.V.

Schwarz on Tax Treaties is the definitive analysis of tax treaties from United Kingdom and Irish perspectives and provides in-depth expert analysis of the interpretation and interaction of those treaty networks with the European Union and international law. The sixth edition significantly develops the earlier work with enhanced commentary and is updated to include the latest UK, Irish domestic and treaty developments, international and EU law, including: Covered Tax Agreements modified by the BEPS Multilateral Instrument; judicial decisions of Ireland, the UK and foreign courts on UK and Irish treaties; Digital Services Tax; treaty binding compulsory arbitration; Brexit and the EU-UK Trade and Cooperation Agreement; taxpayer rights in exchange of information; taxpayer rights in EU cross-border collection of taxes; attribution of profits to permanent establishments; and EU DAC 6 Disclosure of cross-border planning. Case law developments including: UK Supreme Court in *Fowler v HMRC*; Indian Supreme Court in *Engineering Analysis Centre of Excellence Private Limited and Others v CIT*; Australian Full Federal Court in *Addy v CoT*; French Supreme Administrative Court in *Valueclick*; English Court of Appeal in *Irish Bank Resolution Corporation v HMRC*; *JJ Management and others v HMRC*; United States Tax Court in *Adams Challenge v CIR*; UK Tax Tribunals in *Royal Bank of Canada v HMRC*; *Lloyd-Webber v HMRC*; *Esso Exploration and Production v HMRC*; *Glencore v HMRC*; *McCabe v HMRC*; *Padfield v HMRC*; *Davies v HMRC*; *Uddin v HMRC*; English High Court in *Minera Las Bambas v Glencore*; *Kotton v First Tier Tribunal*; and CJEU in *N Luxembourg I*, and others (the 'Danish beneficial ownership cases'); *État belge v Pantochim*; *College Pension Plan of British Columbia v Finanzamt München*; *HB v Istituto Nazionale della Previdenza Sociale*. About the Author Jonathan Schwarz BA, LLB (Witwatersrand), LLM (UC Berkeley), FTII is an English Barrister at Temple Tax Chambers in London and is also a South African Advocate and a Canadian and Irish Barrister. His practice focuses on international tax disputes as counsel and as an expert and advises on solving cross-border tax problems. He is a Visiting Professor at the Faculty of Law, King's College London University. He has been listed as a leading tax Barrister in both the Legal 500, for international corporate tax, and Chambers' Guide to the Legal Profession, for international transactions and particular expertise in transfer pricing. He has been lauded in Who's Who Legal, UK Bar for his 'brilliant' handling of cross-border tax problems. In Chambers Guide, he is identified as 'the double tax guru' with 'extraordinary depth of knowledge and experience when it comes to tax treaty issues and is a creative thinker and a clear and meticulous writer'.

**Edited By: Ekkehart Reimer, Alexander Rust** International Monetary Fund

Full Title: Klaus Vogel on Double Taxation Conventions, Third Edition, A Commentary to the OECD, UN and U.S. Model Conventions for the Avoidance of Double Taxation of Income and Capital, With Particular Reference to German Treaty Practice A Commentary to the OECD, UN and U.S. Model

Conventions for the Avoidance of Double Taxation of Income and Capital, With Particular Reference to German Treaty Practice. Double taxation conventions (DTCs) raise a plethora of interpretational questions for the practitioner and student of tax law. This book provides the answers. An encyclopedic treatise on DTCs, Klaus Vogel on Double Taxation Conventions is a guide to all legal issues DTCs raise and includes information on worldwide case law and commentators' views. The OECD Model Convention serves as the organisational basis for this work. Each chapter focuses on one article of the Convention and provides: the wording of the article and that of the respective articles of the UN and US Models, the official Commentary by OECD, and an extensive discussion by the authors of the legal problems involved. In addition, Klaus Vogel on Double Taxation Conventions offers an account of all German tax treaties, how they differ from the model provisions, and the potential practical impact of such differences. The first two editions have been used by lawyers, tax advisers, and scholars all over the world. Courts in Canada, Germany, South Africa, and the Netherlands have cited them as authority. This revised edition includes the most recent OECD Model revisions and all recent case law and relevant literature. The authors have rethought many of the problems discussed, further improved their argument, and amended their views where they have been convinced by opponents.

.... **Vol. 2** IBFD

Although the details of tax law are literally endless—differing not only from jurisdiction to jurisdiction but also from day-to-day—structures and patterns exist across tax systems that can be understood with relative ease. This book, now in an updated new edition, focuses on these essential patterns. It provides an immensely useful introduction to the core common knowledge that any well-informed tax lawyer or policy maker should have about comparative tax law in our times. The busy reader will welcome the compact nature of this work, which is shorter than the first edition and can be read in a weekend if one skips footnotes. The authors elucidate the commonalities and differences across countries in areas including (much of the detail new to the second edition): • general anti-avoidance rules; • court decisions striking down tax laws as violating constitutional rules against retroactivity, unequal treatment of equals, confiscation, and undue vagueness; • statutory interpretation; • inflation adjustment rules and the allowance for corporate equity; • value added tax systems; • concepts such as “tax”, “capital gain”, “tax avoidance”, and “partnership”; • corporate-shareholder tax systems; • the relationship between tax and financial accounting; • taxation of investment income; • tax authorities’ ability to obtain and process information about taxpayers; and • systems of appeals from tax assessments. The information and analysis pull together valuable material which is scattered over a disparate literature, much of it not available in English. Especially considering the dynamic nature of tax law, whose rate of change exceeds that of any other field of law, the authors’ clear identification of the underlying patterns and fundamental structures that all tax systems have in common—as well as where the differences lie—guides the reader and offers resources for further research.

**A Global Analysis of Tax Treaty Disputes** Linde Verlag GmbH

This two-volume set offers an in-depth analysis of the leading tax treaty disputes in the G20 and beyond within the first century of international tax law. Including country-by-country and thematic analyses, the study is structured around a novel global taxonomy of tax treaty disputes and includes

an unprecedented dataset with over 1500 leading tax treaty cases. By adopting a contextual approach the local expertise of the contributors allows for a thorough and transparent analysis. This set is an important reference tool for anyone implementing or studying international tax regulations and will facilitate the work of courts, tax administrations and practitioners around the world. It is designed to complement model conventions such as the OECD Model Tax Convention on Income and on Capital. Together with *Resolving Transfer Pricing Disputes* (2012), it is a comprehensive addition to current debate on the international tax law regime.

*A Domestic Taxation, Bilateral Tax Treaty and OECD Perspective* Wolters Kluwer Law & Business  
Kluwer Law International

Poignant and powerful narrative about intolerance and freeing yourself from bad influences, by an award-winning author...

*Klaus Vogel on Double Taxation Conventions* Linde Verlag GmbH

Modern-day tax treaties have their foundations in one of the three Model Tax Treaties developed by the League of Nations in 1928. Using previously unexplored archival material, Sunita Jogarajan provides the first in-depth examination of the development of the League's Models. This new research provides insights into questions such as the importance of double taxation versus tax evasion; the preference for source-taxation versus residence-taxation; the influence of theory and practice on the League's work; the development of bilateral rather than multilateral treaties; the influence of developing countries on the League's work; the role of Commentary in interpreting model tax treaties; and the influential factors and key individuals involved. A better understanding of the development of the original models will inform and help guide interpretation and reform of modern-day tax treaties. Additionally, this book will be of interest to scholars of international relations and the development of law at international organisations.

Schriftenreihe IStR Band 108 Klaus Vogel on Double Taxation Conventions Klaus Vogel on Double Taxation Conventions is regarded as the international gold standard on the law of tax treaties. This article-by-article commentary has been completely revised and updated to give you a full and current account of double tax conventions (DTCs). DTCs form the backbone of international taxation, but they raise many interpretational questions. This market leading work will provide you with the answers. Based on the OECD/G20 Multilateral Instrument, the OECD MC and Commentary published in 2017 and the most recent amendments to the UN MC, the book also includes relevant case law and scholarly literature upto and including 2020. Previous editions of the Vogel have been routinely relied on by courts around the world including Australia, Canada, Germany, India, South Africa, the Netherlands and United Kingdom. What's new in this edition? There have been many important developments in this area since the last edition in 2015. The authors discuss these developments and the effect they will have upon practitioners working in this area. They also provide a wealth of new and revised case law, along with the DTCs of emerging countries. You'll find: Reports about major features in the DTC practice of many leading jurisdictions, such as: the DTC practice of Austria, Canada, France, Germany, India, the Netherlands, Switzerland, the UK and the US Sections on divergent country practice covering their national models and networks of bilateral DTCs Thorough analysis of the OECD and UN model, as well as the implementation of these models in practice Amendments of bilateral DTCs, textual or in substance, on the basis of the 2017 Anti-BEPS

Multilateral Instrument Coverage of a full range of the latest tax treaties around the world, including important treaties between OECD and BRICS countries This new Fifth Edition of Klaus Vogel on Double Taxation Conventions continues to reflect the unchallenged role of the OECD. The OECD MC, accompanied by the official Commentary, guidelines, reports and other recommendations, has sustained its position as the most important legal instrument in the area of DTCs. On occasion, the UN MC and Commentary diverge from the OECD texts. When this happens, the authors deal with the specifics of the UN MC in separate annotations and analyses, explaining and making sure you understand the differences. How this will help you: All the information you need to confidently advise on issues such as the taxation of income, taxation of capital and the elimination of double taxation Know that your advice to clients is based on the most up-to-date and respected information available, from an outstanding team of editors and authors The editors, Professors Ekkehart Reimer and Alexander Rust, have worked with the late Professor Vogel as well as an international team of top experts to completely update and enhance the content. The writing team comprises: Editors: Prof. Dr Ekkehart Reimer, Heidelberg University and Prof. Dr Alexander Rust, WU Vienna. Authors: Johannes Becker, Federal Ministry of Finance, Berlin; Alexander Blank, University of Erlangen-Nuremberg; Katharina Blank, Federal Ministry of Finance, Berlin; Michael Blank, University of Erlangen-Nuremberg, Prof. Dr Luc De Broe, Catholic University of Leuven; Laga; Prof. Dr Axel Cordewener, Catholic University of Leuven and Flick Gocke Schaumburg; Prof. Dr Ana Paula Dourado, University of Lisbon; Daniela Endres-Reich, University of Erlangen-Nuremberg; Prof. Dr Werner Haslehner, University of Luxembourg; Prof. Dr Roland Ismer, University of Erlangen-Nuremberg; Prof. Dr Eric C. C. M. Kemmeren, Tilburg University; Prof. Dr Georg Kofler, WU Vienna; Sophia Piotrowski, University of Erlangen-Nuremberg; Prof. Dr Ekkehart Reimer, Heidelberg University; Prof. Dr Alexander Rust, WU Vienna; Annika Streicher, WU Vienna; Prof. Dr. Matthias Valta, Duesseldorf University; Jens Wittendorff, Ernst & Young, Copenhagen and University of Aarhus; Kamilla Zembala, Heidelberg University Klaus Vogel On Double Taxation Conventions A Commentary to the OECD, UN and U.S. Model Conventions for the Avoidance of Double Taxation of Income and Capital, With Particular Reference to German Treaty Practice. Double taxation conventions (DTCs) raise a plethora of interpretational questions for the practitioner and student of tax law. This book provides the answers. An encyclopedic treatise on DTCs, Klaus Vogel on Double Taxation Conventions is a guide to all legal issues DTCs raise and includes information on worldwide case law and commentators' views. The OECD Model Convention serves as the organisational basis for this work. Each chapter focuses on one article of the Convention and provides: the wording of the article and that of the respective articles of the UN and US Models, the official Commentary by OECD, and an extensive discussion by the authors of the legal problems involved. In addition, Klaus Vogel on Double Taxation Conventions offers an account of all German tax treaties, how they differ from the model provisions, and the potential practical impact of such differences. The first two editions have been used by lawyers, tax advisers, and scholars all over the world. Courts in Canada, Germany, South Africa, and the Netherlands have cited them as authority. This revised edition includes the most recent OECD Model revisions and all recent case law and relevant literature. The authors have rethought many of the problems discussed, further improved their argument, and amended their views where they have been convinced by opponents. Klaus Vogel on Double

Taxation Conventions Edited By: Ekkehart Reimer, Alexander Rust Double taxation conventions (DTCs) raise a plethora of interpretational questions for the practitioner and student of tax law. This book provides the answers. An encyclopedic treatise on DTCs, Klaus Vogel on Double Taxation Conventions is a guide to all legal issues DTCs raise and includes information on worldwide case law and commentators' views. The OECD Model Convention serves as the organisational basis for this work. Each chapter focuses on one article of the Convention and provides: the wording of the article and that of the respective articles of the UN and US Models, the official Commentary by OECD, and an extensive discussion by the authors of the legal problems involved. In addition, Klaus Vogel on Double Taxation Conventions offers an account of all German tax treaties, how they differ from the model provisions, and the potential practical impact of such differences. Klaus Vogel on Double Taxation Conventions A Commentary to the OECD-, UN-, and US Model Conventions for the Avoidance of Double Taxation on Income and Capital, with Particular Reference to German Treaty Practice

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*Klaus Vogel on Double Taxation Conventions* Kluwer Law International B.V.

Edited by Victor Thuronyi, this book offers an introduction to a broad range of issues in comparative tax law and is based on comparative discussion of the tax laws of developed countries. It presents practical models and guidelines for drafting tax legislation that can be used by officials of developing and transition countries. Volume I covers general issues, some special topics, and major taxes other than income tax.

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**Klaus Vogel on Double Taxation Conventions** Cambridge University Press

Permanent Establishments (PEs) are a key facet of international taxation. They constitute the crucial threshold for the assignment of taxing rights to a jurisdiction in all cases of enterprises operating in more than one country. The issue of whether there is a PE, and how much profit should be allocated to it, is an increasingly important factor in tax planning, tax accounting, tax compliance, and related tax risk management. Groundbreaking developments have reshaped the face of the classical PE concept during the year 2017. Following action item no. 7 of the Anti-BEPS efforts of G20 and OECD, the OECD has presented the Multilateral Instrument (MLI) on Base Erosion and Profit Shifting in June 2017. Based on the MLI as well as earlier drafts, Article 5 of the OECD Model Tax Convention and the Official Commentary have been amended in November 2017. Similarly, Article 7 of the OECD Model

Tax Convention on the allocation of income in PE situations is influenced by the October 2015 OECD BEPS proposals. This academically rigorous yet thoroughly practical work provides comprehensive guidance on a variety of complex PE issues. Its initial chapters analyse the latest OECD and EU developments in the context of Articles 5 and 7 of the OECD Model Tax Convention. 21 country chapters cover domestic PE issues as well as country-specific treaty developments from a practical perspective. Contributors: Fabrizio Acerbis, Maret Ansperi, Yumiko Arai, Ákos Burján, Anna Berglund, Peter Collins, Mike Cooper, David Cuellar, Veronika Daurer, Frank Feng, Mikhail Filinov, Sandra Fleurier, Jose Antonio Gonzalez, Herbert Greinecker, Søren Jesper Hansen, Lars Ellegård Holst, Mauricio Hurtado, Martin Jann, Renaud Jouffroy, David Lerner, Peter Lindblad, Iren Lipre, Jessica Ma, Anna Mallol, Dennis Matthijs, Hamish McElwee, Kunal Mehta, Osman Mollagee, Matthew Mui, Ramón Mullerat, Luis Felipe Muñoz, Stephen Nauheim, Francesco Nuzzolo, Yoshiyasu Okada, Marianne Orell, Oren Penn, Martin Poulsen, Lene Munk Rasmussen, Ekkehart Reimer, Daniel Rinke, Stefan Schmid, Mathias Schreiber, Vishal J. Shah, Smit Sheth, Tom Stuer, Maarten Temmerman, Eszter Turcsik, Hein Vermeulen, Huili Wang, Sonia Watson, Ciska Wisman, Raymond Wong & Alan Yam.

Tax Treaty Case Law around the Globe 2017 Kluwer Law International B.V.

Selected issues of the various non-discrimination concepts Non-discrimination plays an important, if not crucial, role in many areas of law, such as constitutional law, human rights law, world trade law, EU law and tax treaty law. Both direct and indirect taxation are affected by the various types of non-discrimination provisions. From a practical point of view, the non-discrimination provisions within the EU legal framework and the non-discrimination concept under Article 24 of the OECD Model are important examples in this respect. In both areas of non-discrimination law, there are many open issues which have been debated for a long time and have evolved as evergreens of non-discrimination in the area of taxation; examples are the meaning of the ECJ's case law on the "finality" of losses or the compatibility of group regimes with Article 24 of the OECD Model. Other problems have emerged only recently, because of current developments at the OECD level, notably the BEPS project. Therefore, non-discrimination suggested itself as a general topic for the master theses of the full-time LL.M. program in 2014/2015. This book takes up and deals with selected issues in depth. Although the relevant non-discrimination provisions are different in wording and context, often the same issues can be analyzed under both the EU fundamental freedoms and Article 24 of the OECD Model. The results under these non-discrimination provisions may differ. However, similar policy considerations and arguments often influence the final decisions. With this book, the authors and editors contribute to the discussion on selected issues of the various non-discrimination concepts and the challenges they present.

Double Taxation Conventions OECD Publishing

Bilateral income tax treaties do not always operate effectively in situations where more than two states are involved. These situations are known as "triangular cases" and they typically arise where a person who is resident in two states for tax purposes (a dual resident), or a person who is resident in one state and has a permanent establishment (PE) in another, has dealings with a resident of a third state. This thesis explores the issues presented by the application of bilateral tax treaties in PE triangular cases, dual resident triangular cases and reverse triangular cases. Key among these issues is the fact that the source state is not required to apply the conditions of the treaty between

the PE state and the source state, even though the treaty between the residence state and the PE state will allocate the prior (and perhaps exclusive) taxing rights to the PE state. This book argues that this approach should be reconsidered. It argues that residence concepts do not always provide a strong foundation on which to base eligibility for treaty benefits, that the PE concept and, in particular, the attribution of income to the PE, represents a sufficiently strong connection to the PE state to support a treaty claim, and that treaty-shopping concerns can be sufficiently addressed. As part of this analysis, this book examines the most fundamental questions associated with tax treaties: when they should apply, how they should apply, and what all those familiar concepts really mean.

Avoidance of Double Non-taxation Edward Elgar Publishing

“Tax Treaties and Domestic Law provides an in-depth analysis of the relationship between tax treaties and domestic law. It begins from an analysis of the topic from a constitutional and an international point of view, with a particular emphasis on the provisions laid down by Articles 26 and 27 of the Vienna Convention on the Law of Treaties. Special reports focus on tax treaty issues. In this context, specific problems raised by tax treaties are considered, such as treaty overrides and anti-abuse measures. The interaction between treaty provisions and domestic law is taken into consideration. Individual country surveys show how the issues raised by the relationships between tax treaties and domestic law are resolved by tax administrations and courts in selected European and non-European countries. A specific chapter is devoted to an analysis of how the relationships between tax treaties and domestic law can be improved in the fields of treaty override, treaty residence and anti-abuse measures.” -- Book jacket.

**Klaus Vogel on Double Taxation Conventions** Kluwer Law International B.V.

Judicial Interpretation of Tax Treaties is a detailed analytical guide to the interpretation of tax treaties at the national level. The book focuses on how domestic courts interpret and apply the OECD Commentary to OECD Model Tax Convention on Income and on Capital. Adopting a global perspective, the book gives a systematic presentation of the main interpretive proposals put forward

by the OECD Commentary, and analyses selected cases decided in domestic tax systems in order to assess whether and how such solutions are adopted through national judicial process, and indeed which of these are of most practical value. The book operates on two levels: firstly it sets out a clear and comprehensive framework of tax treaty law, which will be an important tool for any tax practitioner. Secondly, the book provides crucial guidance on issues of tax treaty law as applied at domestic level, such as investment or business income, dispute resolution and administrative cooperation.

Cambridge University Press

Comprehensive loose-leaf guide analysing United States income tax treaties. The commentary is divided into three parts providing general background information regarding income tax treaties and the model treaty process, commentary of the individual provisions of the US Model and of existing US treaties, appendices are included.

*a commentary to the OECD-, UN- and US model conventions for the avoidance of double taxation of income and capital : with particular reference to german treaty practice* Kluwer Law International B.V.

This book is a unique publication that gives a global overview of international tax disputes on double tax conventions and thereby fills a gap in the area of tax treaty case law. It covers the forty-one most important tax treaty cases which were decided in 2016 around the world.

**Klaus Vogel and the Bad Lads** IBFD

The book describes the difficulties of the current international corporate income tax system. It starts by describing its origins and how changes, such as the development of multinational enterprises and digitalization have created fundamental problems, not foreseen at its inception. These include tax competition—as governments try to attract tax bases through low tax rates or incentives, and profit shifting, as companies avoid tax by reporting profits in jurisdictions with lower tax rates. The book then discusses solutions, including both evolutionary changes to the current system and fundamental reform options. It covers both reform efforts already under way, for example under the Inclusive Framework at the OECD, and potential radical reform ideas developed by academics.

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