

LITERATURE REVIEW

Roy Robatgi on International Taxation – Volume 1: Principles, Ola Ostaszewska & Belema Obuoforibo (editors), IBFD, 2018

Roy Robatgi's 'Basic International Taxation' (Volume 1: Principles) is no doubt well known to all who work or teach in international taxation, and well-used copies of this seminal text can be found in personal and professional libraries worldwide. The first edition of the book was published in 2001 by Kluwer Law International and the second edition in 2005 by BNA International. The third and latest edition was updated by the IBFD's technical experts and published by the IBFD in 2018. This latest edition will be welcomed by practitioners, teachers, and students of international taxation.

Rohatgi's book was ahead of its time in recognizing the general importance of international taxation and the need for a text that is simple and comprehensive in its coverage of the subject matter. Since the initial publication, there has been substantial growth in cross-border trade and investment. In particular, the aggressive tax avoidance practices used by certain multinational groups such as Google, Facebook, and Starbucks led to the creation of the OECD/G20 project on Base Erosion and Profit Shifting (BEPS) to develop international anti-avoidance measures. Today, international tax issues are reported in mainstream media on an almost daily basis. Many post-graduate students of international taxation have admitted to pursuing this area of study merely because of the mainstream attention. This book, 'Roy Rohatgi on International Taxation', will provide such students with a head start in their studies with its introduction to a wide-range of international tax topics.

Even though a complete revision of the book is justified by the sweeping change to international tax flowing from the OECD/G20 project on BEPS, many of the valued aspects of the previous edition have been retained. The four chapters in the previous edition are now represented by four parts.

Part 1, consisting of Chapters 1 to 3 (inclusive), addresses 'Domestic Tax Systems and International Double Taxation'. A novice student of international taxation will appreciate Chapter 1 which provides a brief but informative outline of the entire book and a summary of key international tax issues. Chapter 2 deals with the role of domestic tax systems in double taxation while Chapter 3 discusses the various methods of double taxation relief.

In both chapters, the concepts of juridical and economic double taxation, often a source of confusion, are clearly separated and explained.

Part 2, titled 'Cross-Border Taxation and International Conventions', consists of four chapters. Chapter 4 provides a brief introduction to tax treaties including their interaction with a country's domestic legal framework. Chapter 5 addresses the model conventions and, as may be expected, it covers the OECD, UN, and US models. However, interestingly, the chapter also discusses the lesser known Latin American Institute of Tax Law (ILADT) Multilateral Model Convention for Latin America for the Avoidance of Double Taxation. The inclusion of this model broadens the scope of the book and provides an opportunity for teachers and students to engage in a discussion on the importance of source taxation rules in some countries, such as the Latin American countries. Similarly, Chapter 6, which covers multilateral tax agreements, is wide-ranging as it addresses the OECD's Multilateral Instrument (MLI) and earlier multilateral agreements such as the Nordic Convention, the Andean Pact, and the Caribbean Community (CARICOM) Multilateral Tax Agreement. Brief mention is also made of the multilateral tax treaty of the Western African Economic and Monetary Union; the Arab Economic Union Council Income and Capital Tax Agreement of 1973; and the East African Community Double Tax Agreement. This reader, for one, would have welcomed slightly more information on these lesser-known multilateral agreements, but the authors are to be commended for ensuring their inclusion. Chapter 7 deals with treaties on administrative assistance and addresses the EU directives in this regard, the OECD's Convention on Mutual Administrative Assistance in Tax Matters, as well as regional and bilateral agreements. Tax administration assistance agreements and international exchange of information in particular have grown in prominence in recent years, and the devotion of an entire chapter to administrative assistance treaties highlights their importance.

Part 3, 'Income and Capital Tax Treaties', is comprised of thirteen chapters and forms the substantial proportion of the book. After first explaining the structure of tax treaties,

the chapters cover the scope of tax treaties (persons covered, taxes covered), residence, active income of companies, active income of individuals, passive income, taxation of income from immovable property, capital gains, other distributive rules, elimination of double taxation, entitlement of treaty benefits, prohibition of discrimination and the administrative provisions. Entire books are devoted to just one aspect of what is covered in these chapters, and the authors are to be commended for being comprehensive in their breadth of coverage. However, understandably, the limited detail means that most readers would need to supplement the knowledge gained from these chapters with further reading. A 'suggested further reading' section, as included in the previous edition of the book, would be particularly welcome for these chapters and would greatly increase the utility of the book for readers.

Finally, Part 4 addresses the 'Interpretation and Application of Tax Treaties' in six chapters. These chapters address the Vienna Convention on the Law of Treaties, the role of the OECD commentaries, the role of the MLI, the interaction between domestic law and tax treaties, the lifecycle of tax treaties, and tax treaties and dispute resolution. Topics such as the lifecycle of tax treaties as well as tax treaties and dispute resolution are often sidelined, and it is good to see such topics given the prominence of individual chapters.

For readers familiar with the previous edition of the book, the glossary of international tax terms and the exhibits (the model tax treaties) sections have been

removed from the latest edition. This content is now easily accessible from various sources online which may not have been the case in 2005.

In seeking to provide a comprehensive primer on international taxation that remains accessible to students, the book naturally suffers from a lack of depth and may prove insufficient for readers wanting an exhaustive understanding of international taxation issues. However, that is not the role of this book. For its target audience, a reader wanting an introduction to the principles of international taxation, 'Roy Rohatgi on International Taxation' will be welcome reading. The broad coverage not only of topics but also within topics such as the discussion of ILADT, the Andean Pact, and CARICOM is to be welcomed and ensures that the book is relevant to all readers, wherever they may be located. Even experienced international tax practitioners are unlikely to be well versed in the breadth of topics covered in this book and may find themselves turning to it for an overview of a particular topic. The authors and the IBFD are to be congratulated for taking on this excellent publication and ensuring that a new generation of readers are able to benefit from Roy Rohatgi's original vision – a clear, accessible, comprehensive text providing an introduction to the principles of international taxation.

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