INTERNATIONAL TAX CONFERENCES OF THE UNIVERSITY OF LUXEMBOURG

Double Taxation within the European Union

Edited by
Alexander Rust

Wolters Kluwer
Law & Business

Double Taxation within the European Union

Edited by

Alexander Rust

Wolters Kluwer

Law & Business

Published by:
Kluwer Law International
PO Box 316
2400 AH Alphen aan den Rijn
The Netherlands
Website: www.kluwerlaw.com

Sold and distributed in North, Central and South America by:
Aspen Publishers, Inc.
7201 McKinney Circle
Frederick, MD 21704
United States of America
Email: customer.service@aspenpublishers.com

Sold and distributed in all other countries by:
Turpin Distribution Services Ltd.
Stratton Business Park
Pegasus Drive, Biggleswade
Bedfordshire SG18 8TQ
United Kingdom
Email: kluwerlaw@turpin-distribution.com

Printed on acid-free paper.

ISBN 978-90-411-3525-4

© 2011 Kluwer Law International BV, The Netherlands

All rights reserved. No part of this publication may be reproduced, stored in a retrieval system, or transmitted in any form or by any means, electronic, mechanical, photocopying, recording, or otherwise, without written permission from the publisher.

Permission to use this content must be obtained from the copyright owner. Please apply to: Permissions Department, Wolters Kluwer Legal, 76 Ninth Avenue, 7th Floor, New York, NY 10011-5201, USA. Email: permissions@kluwerlaw.com

Printed in Great Britain

Preface and Acknowledgment

With this contribution on double taxation within the European Union, the University of Luxembourg starts a book series which will deal with current topics of European and International Tax Law.

The chapters in the book constitute the extended versions of the oral contributions given at a conference on April 19, 2010 at the University of Luxembourg. Peter Wattel and Servaas van Thiel kindly agreed to write a comment on two chapters without having participated at the conference.

The book focuses on the problem of double taxation. Despite the conclusion of tax treaties and despite the enactment of several directives double taxation still occurs within the European Union. Double taxation causes severe obstacles for cross-border trade, for the provision of services and capital and for the free movement of persons. The first two chapters by Rust and Remacle/Nonnenkamp analyze the reasons for the existence of juridical and economic double taxation. Chapter three by Braum gives an overview of the problems of double burdens in criminal law and describes the solutions found in this area of law. Kube examines in Chapter 4 the constitutional limits for double taxation. Chapters 5 and 6 by Hofmann and Reimer respectively address the consequences resulting from the abolition of Article 293 EC which obliged the Member States—so far as it was necessary—to conclude tax treaties in order to abolish double taxation. Kofler and Rust ask in Chapters 7 and 8 the question whether double taxation can be solved within the European Union by the application of the four freedoms. Their proposals are criticized in Chapters 9 and 10 written by Wattel and Thiel. Pistone discusses in Chapter 11 whether the conclusion of a multilateral tax treaty or the introduction of the Common Consolidated Corporate Tax Base might constitute a solution for the problem of remaining double taxation. The last Chapter 12 by Ismer suggests using the arbitration clauses contained in the tax treaties to solve the remaining double taxation issues.

On December 10, 2010 the European Commission has published a communication outlining the most severe double taxation problems. The discussion on how to solve these issues has started. The authors hope to contribute to this fruitful discussion with the publication of this book and are hopeful that one day the problem of double taxation will be solved.

The editor would like to express his sincere gratitude to the authors. They traveled long distances by car or by train in order to participate at the conference as flights were cancelled due to the eruption of the Icelandic volcano Eyjafjallajökull. They delivered their manuscripts within short notice after the conference. Many thanks are given to Kluwer especially to Lijntje Zandee for their cooperation and swift realization of this publication project. The editor wants to thank his assistant Katarina Köszeghy who edited all manuscripts. Above all the editor is extremely grateful to the advisory firm ATOZ who sponsored his chair and the conference series on European and International Tax Law.

Alexander Rust
ATOZ Chair for International and European Taxation
University of Luxembourg

试读结束：需要全本请在线购买： www.ertongbook.com

Summary of Contents

Preface and Acknowledgment xiii

Chapter 1
Double Taxation 1
Alexander Rust

Chapter 2
Economic Double Taxation as an Obstacle to Cross-Border Investments 17
Olivier Remacle & Samantha Nonnenkamp

Chapter 3
Double Jeopardy in Criminal Law: Conflicts of Competence and Possible Solutions 51
Stefan Braum

Chapter 4
Double Burdens within the European Union: Solutions in other Areas of Law: Constitutional Law 63
Hanno Kube

Chapter 5
Double Tax Agreements: Between EU Law and Public International Law 75
Herwig Hofmann

Chapter 6
The Abolition of Article 293 EC: Comments on Hofmann's Analysis 87
Ekkehart Reimer

Chapter 7
Double Taxation and European Law: Analysis of the Jurisprudence 97
Georg Kofler

Chapter 8
How European Law Could Solve Double Taxation 137
Alexander Rust

Chapter 9
Passing the Buck Around: Who Is Responsible for Double Taxation?—Comments on Profs. Kofler and Rust's Analysis 157
Peter J. Wattel

Chapter 10
Avoiding a Double Burden within the European Union: Comments on Kofler and Rust's Analysis 167
Servaas van Thiel

Chapter 11
Double Taxation: Selected Issues of Compatibility with European Law, Multilateral Tax Treaties and CCCTB 187
Pasquale Pistone

Chapter 12
MAP and Arbitration as Remedies for Double Burdens: Evolutionary Law-Making through Procedural Rather Than Substantive Rules? 211
Roland Ismer

Index 227

Table of Contents

Preface and Acknowledgment xiii

Chapter 1
Double Taxation 1
Alexander Rust

1.1 Definition of and Reasons for International Juridical Double Taxation 1
1.2 Mechanisms for the Avoidance of Double Taxation 2
1.2.1 Unilateral Mechanisms for the Avoidance of Double Taxation 3
1.2.2 EU Measures for the Avoidance of Double Taxation 5
1.2.2.1 The Parent-Subsidiary Directive 5
1.2.2.2 The Interest and Royalty Directive 6
1.2.2.3 The Merger Directive 6
1.2.2.4 The Savings Directive 7
1.2.2.5 Deficiencies of the Directives 8
1.2.3 Bilateral Agreements for the Avoidance of Double Taxation 8
1.2.3.1 Reduction of Taxation in the Source State 8
1.2.3.2 Reduction of Taxation in the Residence State 9
1.2.3.3 Dual Residence Taxation 9
1.2.3.4 Deficiencies in the Avoidance of Double Taxation by Treaties 10
1.2.3.5 Timing Mismatches 11
1.2.3.6 Qualification Conflicts 12
1.3 Tax Planning to Avoid Double Taxation 13
1.3.1 Treaty Shopping 13
1.3.2 Making Taxes Creditable 14
1.4 Conclusions 15

Chapter 2
Economic Double Taxation as an Obstacle to Cross-Border Investments **17**
Olivier Remacle & Samantha Nonnenkamp

2.1 Introduction 17
2.2 Economic Double Taxation versus Juridical Double Taxation in the Context of Double Tax Treaties 19
2.3 International Economic Double Taxation in a Direct Tax Context 20
2.3.1 Dividend Distributions 20
2.3.2 Transfer Pricing 23
2.3.3 Cross-Border Partnerships 29
2.3.3.1 Economic Double Taxation with Hybrid Entities 30
2.3.3.2 Economic Double Taxation in Reverse Hybrid Situations 31
2.3.3.3 Double Tax Relief in Hybrid Situations 32
2.3.4 Hybrid Finance 33
2.3.4.1 Example 1: Double Taxation 33
2.3.4.2 Example 2: Double-Nontaxation 34
2.3.4.3 Relief of Double Taxation of the Yield on Hybrid Financial Instruments 34
2.3.5 Thin Capitalization and other Interest Limitation Rules 37
2.3.6 Denial of Compensation of Profits and Losses within a Group of Companies 38
2.3.7 CFC Rules 40
2.3.8 International Solutions to Avoid International Economic Double Taxation in a Direct Tax Context 42
2.4 International Economic Double Taxation in a VAT Context 47

Chapter 3
Double Jeopardy in Criminal Law: Conflicts of Competence and Possible Solutions **51**
Stefan Braum

3.1 Elements of Territorial Jurisdiction 52
3.1.1 The Principle of Territoriality 52
3.1.1.1 Basics 52
3.1.1.2 Challenges and Extensions 53
3.1.2 Jurisdiction in Cases Related to a National Citizen ("Principle of Personality:" *Personalitätsprinzip*) 54
3.1.3 Jurisdiction in Cases Related to National Legal Interests ("Jurisdiction due to National Security:" *Staatsschutzprinzip*) 55

3.1.4 Jurisdiction in Cases related to International Protected Legal Interests ("Principle of Universal Jurisdiction:" *Stellvertretende Strafrechtspflege*) 56
3.1.5 Conflicts of Territorial Jurisdiction 56
3.2 Mutual Recognition: The Principle of *Ne Bis in Idem*, How to Hamper Double Jeopardy 57
3.2.1 Final Disposal 58
3.2.2 Same Acts 59
3.2.3 Term of "Penalty" 60
3.2.4 Law Enforcement 61

Chapter 4
Double Burdens within the European Union: Solutions in other Areas of Law: Constitutional Law 63
Hanno Kube

4.1 The Constitutional Law Principle of Taxation According to the Ability to Pay: In the Face of International Taxation 64
4.1.1 Principle of Taxation According to the Ability to Pay 64
4.1.2 The Resident Taxpayer with Foreign Source Income 64
4.1.3 The Nonresident Taxpayer with Domestic (Source) Income 68
4.1.4 Losses 68
4.1.5 Personal Expenses 69
4.1.6 Withholding Taxation 69
4.2 Taxation in a Federally Structured State 69
4.2.1 Relatively Coherent System of Taxing Powers 69
4.2.2 Challenges 70
4.2.3 Länder Legislation and the Federal Constitutional Law Guarantee of Equality 70
4.3 Constitutional Law on Double Taxation and European Tax Law 71
4.3.1 Different Perspectives and Aims 71
4.3.2 Comparison: In Particular with Regard to the Parallel Exercise of Taxing Powers 71
4.3.3 Reconciling the Interest 73

Chapter 5
Double Tax Agreements: Between EU Law and Public International Law 75
Herwig Hofmann

5.1 Introduction 75
5.2 The former Article 293 EC in Context 76
5.3 Why Abolish the Old Article 293 EC? 80
5.4 Double Tax Agreements under Lisbon 83
5.5 Conclusions 85

Chapter 6
The Abolition of Article 293 EC: Comments on Hofmann's Analysis **87**
Ekkehart Reimer

6.1 The Seven Semantic Layers of Article 293 EC 88
6.1.1 Double Taxation Should Be Avoided 88
6.1.2 There is a Duty to Negotiate 88
6.1.3 The Community Has No Authority to Draft an EC Tax Convention 89
6.1.4 Double Taxation is No Issue for the Fundamental Freedoms 91
6.1.5 Prevention of Double Taxation is No Issue for Harmonization 91
6.1.6 Intra-EU Treaty Override is Prohibited 92
6.1.7 Termination of Intra-EU Treaties is Prohibited 92
6.2 The Treaty of Lisbon, its Survivors and Victims 92
6.2.1 Surviving Content 93
6.2.2 Changes in Substance 93
6.2.3 Open Issues 94
6.3 Resume 95

Chapter 7
Double Taxation and European Law: Analysis of the Jurisprudence **97**
Georg Kofler

7.1 Introduction: Discrimination, Disparities and "Double Burdens" 97
7.2 Double Taxation and European Law 104
7.2.1 The Issue: Juridical Double Taxation and the Internal Market 104
7.2.2 "Double Burdens" in Indirect Taxation and Social Security 109
7.2.3 "Double Burdens" in Direct Taxation: From *Kerckhaert-Morres* to *Damseaux* 116
7.3 Criticism: Is There No Internal Market in Direct Taxation? 123
7.3.1 Relation to other "Double Burden" Case Law 123
7.3.2 Infringement of Member States' Taxing Powers and Political Sovereignty 128
7.3.3 "Priority Rules" and Asymmetry in the Internal Market 130
7.3.4 Lack of Criteria 132
7.4 Summary and Conclusions 133

Chapter 8
How European Law Could Solve Double Taxation **137**
Alexander Rust

8.1 Introduction 137
8.2 Suggestions on How to Avoid the Remaining Double Taxation 141

试读结束：需要全本请在线购买： www.ertongbook.com

8.2.1 Equal Treatment of Unequal Situations 141
8.2.2 Principle of Mutual Recognition 143
8.2.3 No Guidance from the EU Directives 144
8.2.3.1 Primary Taxing Right for the State Where the Income was Generated 145
8.2.3.2 Primary Taxing Right for the Residence State of the Recipient of the Payments 146
8.2.3.3 No Analogous Application of the Directives on a Case by Case Basis 148
8.2.4 Tax Treaties as Benchmark for the Division of Taxing Rights 148
8.2.4.1 OCED Model Convention as Guideline 149
8.2.4.2 The Specific Tax Treaty as Guideline 150
8.2.5 Domestic Law of the Residence State 152
8.2.5.1 Equal Treatment Obligation 152
8.2.5.2 Consistency Between own Behavior and Treatment of Others 153
8.3 Conclusion 155

Chapter 9
Passing the Buck Around: Who Is Responsible for Double Taxation?—Comments on Profs. Kofler and Rust's Analysis 157
Peter J. Wattel

9.1 Introduction 157
9.2 The Broad Picture 158
9.3 Fighting Double Tax Burdens: Mutual Recognition 161
9.4 Fighting Double Tax Burdens: Joint and Several Liability of both States Involved? 162
9.5 Human Rights: the Right to Property 163
9.6 Bilateral Tax Conventions as Guidelines 163
9.7 *Manninen* (Economical Double Taxation) also a Remedy for Juridical Taxation? 165
9.8 A Consistency Rule 166
9.9 Conclusion 166

Chapter 10
Avoiding a Double Burden within the European Union: Comments on Kofler and Rust's Analysis 167
Servaas van Thiel

10.1 Introduction 167
10.2 The Status of European Law on Double Regulatory and Tax Burdens 171
10.3 Why Double Burdens in the (Income) Tax Area Should Also Be Prohibited 174

10.4 Practical Questions Arising from a Union Law Prohibition of Double Taxation 179
10.5 Conclusion 183

Chapter 11
Double Taxation: Selected Issues of Compatibility with European Law, Multilateral Tax Treaties and CCCTB **187**
Pasquale Pistone

11.1 Introduction 187
11.2 Tax Treaties and Double Taxation: Their Critical Features Within the EU Internal Market 189
11.3 Tax Treaties as the Starting Point for a Solution to the Problems of Double Taxation within the EU 192
11.4 The EU MTC: An Updated Overview of Selected Relevant Legal Issues 197
11.4.1 The Overview 197
11.4.2 Drafting and Legal Basis of the EU MTC in European Law 199
11.4.3 Selected Issues from the Content of the EU MTC 202
11.5 Introducing CCCTB: The Impact on Tax Treaties and the Repercussions on EU Tax Law 206
11.6 Conclusions 210

Chapter 12
MAP and Arbitration as Remedies for Double Burdens: Evolutionary Law-Making through Procedural Rather Than Substantive Rules? **211**
Roland Ismer

12.1 Introduction 212
12.2 MAP and Arbitration under the OECD-MC and the European Arbitration Convention 214
12.2.1 MAP as the Basis 215
12.2.2 Tax Treaty Arbitration 217
12.2.3 Arbitration under the EU Arbitration Convention 219
12.3 Mandatory MAPs and Mandatory Arbitration 220
12.3.1 The Proposal: MAP Complemented by Arbitration 220
12.3.2 Pros and Cons 220
12.4 Points in Need of Clarification 221
12.4.1 Excessive Taxation: Violation of Maximum Principle Should trigger Arbitration 221
12.4.2 Substantive Rules? Evolutionary Law-Making! 222
12.4.3 Procedural Aspects 224
12.4.4 Multilateral Procedures? 225
12.5 Conclusion 226

Index **227**

Chapter 1

Double Taxation*

*Alexander Rust***

1.1 DEFINITION OF AND REASONS FOR INTERNATIONAL JURIDICAL DOUBLE TAXATION

International juridical double taxation is in general defined as "the imposition of comparable taxes in two (or more) states on the same taxpayer in respect of the same subject matter and for identical periods."[1] Juridical double taxation has to be distinguished from economic double taxation where two different persons are taxable in respect of the same income or capital.[2] The problem of economic double taxation is dealt with extensively by Remacle & Nonnenkamp.[3]

International juridical double taxation may arise on three different occasions.[4] The most common situation is where one state taxes a person on his worldwide income while the other state taxes the same person with regard to his income earned within the territory of the state. Worldwide taxation or unlimited tax liability is normally triggered by the residence of a person in a country; some

* This contribution serves as an introduction to all following topics. It examines the reasons for the existence of double taxation and analyzes the measures taken by governments and taxpayers to mitigate double taxation.

** Associate Prof. Dr. Alexander Rust, LLM, University of Luxembourg.

1. OECD-Commentary Introduction para. 1 and Commentary to Art. 23A and B para. 1.
2. OECD-Commentary to Art. 23A and B para. 2.
3. See Ch. 2.
4. OECD-Commentary to Art. 23A and B para. 3.

Alexander Rust (ed.), *Double Taxation within the European Union*, pp. 1–15.
© 2011 Kluwer Law International BV, The Netherlands.

countries, however, also tax their citizens on their worldwide income.[5] This type of double taxation is labeled *worldwide versus source taxation*. Another type of double taxation arises if a person is taxed in two states on the basis of his worldwide income. This situation occurs if a person is a resident of two different states or if he is a national of one state and resident in another state. If both countries tax on the basis of nationality it may also arise in the case of dual nationality. This type of double taxation is labeled *worldwide versus worldwide taxation*. The third, in general less frequent type of double taxation arises if two countries regard the income as sourced within the territory of their countries. Both countries might define the source of income differently.[6] These *source versus source* conflicts of double taxation are more frequent if permanent establishments are involved either as the recipient[7] or as the payor[8] of the income.

As a result, double taxation is mainly caused by the fact that countries extend the scope of application of their tax laws beyond the borders of their territory.[9] However, double taxation would not even be avoided if all countries applied a territorial system as the notion of what constitutes "domestic income" varies from country to country.

1.2 MECHANISMS FOR THE AVOIDANCE OF DOUBLE TAXATION

Double taxation produces harmful effects on the exchange of goods and services and movements of capital, technology, and persons.[10] In order to facilitate trade countries are willing to reduce their tax claims on a unilateral, bilateral, or multilateral basis.

5. For the U.S. see, e.g., the definition of a United States person in s. 7701(a)(39)(A) IRC. Concerning inheritance/estate tax, many countries tax their citizens on a worldwide basis for a certain period of time after emigration see Rust, in: Maisto, *Residence of Individuals under Tax Treaties and EC Law* (Amsterdam, IBFD, 2010), 85 et seq., and the national reports in the same book.
6. In many instances the definition of domestic source is very broad leading to many overlaps, for example, see the definition of domestic source for income from personal services in s. 49(1) No. 4 lit. a German and Art. 156 No. 4 lit. b Luxembourg Income Tax Code: "Einkünfte aus nichtselbständiger Arbeit, die im Inland ausgeübt oder verwertet wird," "les revenus d'une occupation salariée . . . lorsque l'occupation est mise en valeur au Grand Duché" which means that it is sufficient that the fruits of the activity are exploited in the source country.
7. In general, the source state taxes the permanent establishment on its worldwide income, see, e.g., s. 49(1) No. 2 German ITC, the US uses the concept of "effectively connected with the conduct of a trade or business within the US" see ss. 871(b) and 882.
8. See, e.g., the US branch profits tax on interest ss. 884(f), 861(1).
9. Wassermeyer, in: Debatin and Wassermeyer, *Kommentar zu den Doppelbesteuerungsabkommen* (Looseleaf January 2008, München, Beck) Vor Art. 1, marg. note 5.
10. OECD-Commentary Introduction para. 1.

1.2.1 Unilateral Mechanisms for the Avoidance of Double Taxation

Customary international law does not forbid double taxation[11] but prevents states from taxing when there is no genuine link between the income and the taxing state.[12] This link can consist in a personal (residence or citizenship) or a territorial connection. In general, states do not go so far that they tax everything which would be possible under public international law; they do not tap their full potential. Many states do not tax on the basis of citizenship: a nonresident citizen will only be taxed if he earns domestic income. As a source state many states do not tax all income earned on their territory. They mostly impose a threshold and require a certain form of integration into the country. In general, nonresidents are only subject to limited tax liability if they earn items of income which are contained in a list of "domestic income" compiled by the source state.[13] Source states generally abstain from taxing business income as long as the permanent establishment threshold has not been reached.[14] Typically, by only taxing beyond a certain threshold countries are not foregoing an enormous amount of revenue. On the other hand they are facilitating trade by reducing the administrative burdens and avoiding double taxation. Sometimes states are unilaterally reducing source state taxation for residents of other states if the other state reciprocally reduces source state taxation for residents of the first state.[15]

The principle of worldwide taxation has many exceptions. As a residence state countries are generally willing to take the taxation in the source state into account either by allowing a credit for the foreign taxes paid, a deduction of the foreign taxes from the tax base, or by exempting foreign income.

The most common unilateral method for the avoidance of double taxation is the credit method. According to the credit method, the taxpayer may deduct the taxes paid in the source state from his tax liability in the residence state. The credit method is generally subject to two important limitations:[16] First, the deduction is

11. BFH [1975] BStBl. II, 497 (498); Vogel, in: Vogel and Lehner, *Doppelbesteuerungsabkommen* (5th edn., Munich, 2008) Einleitung, marg. note 14.
12. BFH [1964] BStBl. III, 253 (256); BFH, BFHE 95, 345 (348 et seq.); Vogel, in: Vogel and Lehner, *Doppelbesteuerungsabkommen* (5th edn., Munich, 2008) Einleitung, marg. note 11.
13. See, e.g., s. 49 German EStG, Art. 156 Luxembourg LIR, ss. 861, 871, 881 et seq. US IRC.
14. See, e.g., s. 49(1) No. 2 lit. a German ITC, Art. 156 No. 1 lit. a Luxembourg ITC; for the US the threshold is an "effective connection with the conduct of a trade or business within the US" see s. 871(b) and s. 882(1) IRC.
15. See, e.g., s. 49(4) German ITC where non-resident shipping and air transport businesses are exempt from tax under condition of reciprocity.
16. Other requirements for receiving a credit are i.a. that the levy is a tax (not a voluntary payment) and that the foreign tax is structured in a similar way as the income tax in the residence state. See Doernberg, *International Taxation in a Nutshell* (8th edn., St. Paul, Thomson/West, 2009), 213; Aramini and Franzè, "Italy: Unilateral and Bilateral Reliefs from International Juridical Double Taxation on Income Derived by Residents" [2002] *Intertax*, 28 (30).

only granted for taxes levied on specific types of foreign income.[17] Second, the credit granted for the foreign taxes may not exceed the domestic tax on the foreign income.[18] This maximum creditable amount ensures that the credit method never reduces the tax on the domestic income.[19] The credit method has the effect of reducing the effective overall rate of tax to the higher of the foreign or the domestic tax rate.[20] The neutrality concept achieved by the credit method is Capital Export Neutrality.[21] The investor should pay the same overall tax irrespective of whether he invests at home or abroad.

Another way of mitigating the double tax burden is to allow the taxpayer to deduct the foreign taxes from the tax base. Foreign taxes are treated in the same way as business expenses. This method achieves national neutrality; the taxpayer will only invest abroad if his profit after foreign taxes is higher than the profit before taxes of a comparable domestic investment.[22] Many countries permit the taxpayer to choose between credit and deduction method.[23] Generally, it is more beneficial to opt for the credit method as one Euro of foreign tax will reduce the domestic tax liability by one Euro. If the taxpayer opts instead for the deduction method one Euro of foreign taxes reduces the domestic tax liability only by the domestic tax rate times one Euro. That means it can be better to take the deduction instead of the credit if the total amount of credit allowed is less than the taxpayer's domestic rate times the creditable taxes paid.[24] Especially in a loss situation a deduction can be more favorable if the country does not allow carrying forward excess credits but allows carrying forward losses.

Sometimes countries unilaterally exempt foreign income. For example, Switzerland does not tax income from foreign permanent establishments or foreign immovable property;[25] many countries exempt foreign dividends;[26] the US is exempting foreign employment income up to a certain amount;[27] France is exempting all foreign income earned by corporations;[28] a few countries only tax domestic income.[29] But even a complete exemption of foreign income does not

17. For example, in Germany a credit is only granted for foreign taxes levied on income enumerated in s. 34d EStG; in Luxembourg on income enumerated in Art. 134*bis* LIR; in the US s. 862 IRC determines the scope of income from sources without the US.
18. See, e.g., s. 34c German EStG, Art. 134*bis* (1) Luxembourg LIR, s. 904(a) US IRC.
19. See Doernberg, *International Taxation in a Nutshell* (8th edn., St. Paul, Thomson/West, 2009), 242.
20. See Owens, *The Foreign Tax Credit* (Boston, 1961), 3.
21. See Vogel, in: Vogel and Lehner, *Doppelbesteuerungsabkommen* (5th edn., Munich, 2008) Einleitung, marg. note 25; Shaviro, *Decoding the U.S. Corporate Tax* (Washington 2009), 122.
22. Shaviro, *Decoding the U.S. Corporate Tax* (Washington 2009), 128.
23. For example, s. 34c(2) German EStG, ss. 27(a), 164(a)(3), 275(a)(4) and 901(a) US IRC.
24. See Owens, *The Foreign Tax Credit* (Boston, 1961), 17.
25. Article 6(1) Swiss Federal DBG.
26. See, e.g., s. 8b German KStG, Art. 166 Luxembourg LIR.
27. See s. 911 US IRC.
28. See Art. 209(1) French CGI: "... en tenant compte uniquement des bénéfices réalisés dans les entreprises exploitées en France...."
29. For example, Hongkong, Kenia, and Uruguay.

试读结束：需要全本请在线购买： www.ertongbook.com