

Herbert H. Alpert & Kees van Raad (eds.)

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# Essays on International Taxation

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in honor of Sidney I. Roberts

Series  
on International  
Taxation



KLUWER

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# Essays on International Taxation

To Sidney I. Roberts

With esteem and affection  
from the participating authors and  
the partners of Roberts & Holland

Edited by Herbert H. Alpert and Kees van Raad

Series  
on International  
Taxation

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# Preface

On November 29, 1993 Sidney I. Roberts reached the age of 80. It is not common in the United States to honor professionals who reach a milestone in their life, with a publication and certainly not with a specially published Festschrift. However, if there is one United States tax lawyer who deserves an international tribute upon reaching a memorable age, it is Sidney Roberts. His bibliography, which is included in this book, shows the breadth and depth of his writings on international taxation over the years, culminating in a masterpiece of scholarship and erudition that he published very recently: 'The Agency Element of Permanent Establishment: The OECD Commentaries from the Civil Law View' (Intertax, September and October 1993 issues).

In many European countries a Festschrift is called, by its Latin name, a *liber amicorum*: a book offered by friends. Sidney's warm personality, gentle manners and readiness to share his insights have made him many friends. Over thirty of his professional friends have contributed to this book. All contributions deal with some aspect of international taxation, many of them from the viewpoint of a given nation's tax system, others from a more general perspective. These essays are presented in an alphabetical order with exception of the personal tribute that William C. Warren pays to Sidney Roberts, which appears as the first contribution to this book.

New York/The Hague  
September 1993

Herbert H. Alpert  
Kees van Raad

# List of abbreviations

ALI	American Law Institute
AMT	Alternative Minimum Tax
AO	Abgabenordnung (German General Tax Law)
APA	Advanced Pricing Agreement
APTIRC	Asian-Pacific Tax and Investment Research Centre
AStG	Aussensteuergesetz (German External Tax Law)
ATF	Arrêt du Tribunal Fédéral (Decision of Swiss Federal Tribunal)
BFH	Bundesfinanzhof (German Federal Tax Court)
BIAC	Business and Industry Advisory Committee (OECD)
BNA	Bureau of National Affairs (publisher)
BODGI	Bulletin Officiel de la Direction Générale des Impôts (official information bulletin of the French tax administration)
Brit Tax Rev	British Tax Review
BStBl	Bundessteuerblatt (German Federal Tax Gazette)
Cal L Rev	California Law Review
Can Tax J	Canadian Tax Journal
CCH	Commerce Clearing House (publisher)
CFC	Controlled Foreign Company
CGI	Code Général des Impôts (French General Tax Code)
CP	Cost Plus
CPM	Comparable Profits Method (US)
CTA	Consolidated Tax Act (Italy)
CUP	Comparable Uncontrolled Price
DB	Der Betrieb (German periodical)
DGI	Direction Générale des Impôts (French Tax Administration)
DISC	Domestic International Sales Corporation (US)
DStR	Deutsches Steuerrecht (German periodical)
EC	European Community
EFG	Entscheidungen der Finanzgerichte (German tax case reporter)

# LIST OF ABBREVIATIONS

ErbStG	Erbschaftsteuergesetz (German Inheritance Tax Law)
EStG	Einkommensteuergesetz (German Income Tax Law)
FAPI	Foreign Accrual Property Income (Canada)
FDAP	Fixed or Determinable, Annual or Periodical (income) (US)
FIF	Foreign Investment Fund (Canada)
FIRPTA	Foreign Investment in Real Property Tax Act (US)
Fla Tax Rev	Florida Tax Review
FPHC	Foreign Personal Holding Company (US)
FSC	Foreign Sales Corporation (US)
GAAP	Generally Accepted Accounting Principles
GAO	Government Accounting Office (US)
GCM	General Counsel Memorandum (US)
Harv L Rev	Harvard Law Review
HC Deb	House of Commons Debates ('Hansard') (UK)
HR	US House of Representatives
HR Rep	US House of Representatives Committee Report
IA	Indian Appeals
ICC	International Chamber of Commerce
IFA	International Fiscal Association
ILM	International Legal Materials
Int'l & Comp L Q	International & Comparative Law Quarterly
IR	Inland Revenue (UK)
IRB	Internal Revenue Bulletin (US)
IRC	US Internal Revenue Code
IRS	US Internal Revenue Service
ISF	Impôt de Solidarité sur la Fortune (French Net Wealth Tax)
ITA	Income Tax Act (Canada)
ITG	International Tax Group
JOAN	Journal Officiel d'Assemblée Nationale (Official Journal of the French Parliament)
J of Tax'n	Journal of Taxation
KStG	Körperschaftsteuergesetz (German Company Income Tax Act)
LHUSTC	Legislative History of United States Tax Conventions

LLC	Limited Liability Company (US)
MBB	Maandblad Belastingbeschouwingen (Dutch periodical)
Nat'l J	National Journal
NYU Tax Inst	New York Institute on Federal Taxation
NTA	National Tax Administration (Japan)
NW J of int'l L and Bus	Northwestern Journal of International Law and Business
OECD	Organization for Economic Cooperation and Development
OID	Original Issue Discount
OIO	Office of International Operations
PCS	Preconfirmation System (Japan)
PE	Permanent Establishment
PFIC	Passive Foreign Investment Corporation (US)
PFIF	Passive Foreign Investment Fund
PHCO	Personal Holding Company (US)
QEF	Qualifying Electing Fund
REIT	Real Estate Investment Trust (US)
REMIC	Real Estate Mortgage Investment Conduct (US)
Rev Proc	Revenue Procedure (US)
Rev Rul	Revenue Ruling (US)
RFH	Reichsfinanzhof (German Federal Tax Court 1919-1945)
RFHE	Entscheidungen des Reichsfinanzhofs (German tax case reporter)
RStBl	Reichssteuerblatt (German Official Gazette)
RP	Resale Price
RUPA	Revised Uniform Partnership Act (US)
S Rep	US Senate Committee Report
SICOMI	Société d'Investissement pour le Commerce et l'Industrie (France)
StAnpG	Steueranpassungsgesetz (German Tax Adaption Law)
STML	Special Taxation Measures Law
StuW	Steuer und Wirtschaft (German periodical)
TA	Taxes Act (UK)
TAMRA	Technical and Miscellaneous Revenue Act of 1988 (US)
TC	Tax Cases (UK)



# LIST OF ABBREVIATIONS

Tax Mgmt Int'l J	Tax Management International Journal
TIN	Tax Identification Number
TM	Tax Management (BNA publication)
TUIR	Testo Unico delle Imposte sui Redditi (Italian Consolidated Income Tax Act)
U Ark Little Rock L J	University of Arkansas at Little Rock Law Journal
UDITPA	Uniform Division of Income for Tax Purposes Act (US)
ULPA	Uniform Limited Partnership Act (US)
UNICE	Union des Confédérations de l'Industrie et des Employeurs d'Europe (Union of Industrial and Employers' Confederations of Europe)
UNTS	United Nations Treaty Series
USC Inst on Fed Tax'n	University of Southern California Institute on Federal Taxation
USRPI	United States Real Property Interest
Va J Int'l Law	Virginia Journal of International Law
VStG	Vermögenssteuergesetz (German Capital Tax Law)
Wash and Lee L Rev	Washington and Lee Law Review
WHTC	Western Hemisphere Trade Corporation

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