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Allocating Taxing Powers within the European Union



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Preface

In May 2011, the Max Planck Institute for Tax Law and Public Finance, the Université Catholique de Louvain and the Tax Institute of the University of Liège convened a conference in the Palais des Académies in Brussels to discuss basic topics of European tax law. Starting from the fact that the judicature of the European Court of Justice regarding the impact of the fundamental freedoms on the tax systems of the Member States is largely built on a non-discrimination approach, renowned experts from all over Europe were invited to present their views on further reaching aspects of the Internal Market and its consequences for the validity of national tax provisions. The overarching goal was to flesh out to what extent a substantive “allocation of taxing powers” within the European Union is on its way to a convincing overall framework. We were happy that many high-level speakers and further participants joined us for two days, sharing their views and proposals for the future development of this area. This book contains enlarged and updated versions of the speeches delivered on that occasion.

One major field of research presented in this volume refers to the value attached to basic elements of the national and international tax order when European law meets domestic taxation. Traditional pillars of income taxation – ability-to-pay, source and residence, territoriality, abuse of law, arm’s length standard – are tested with respect to their place in the emerging European tax order. Moreover, substantial matters of co-existence between different tax systems which are not covered by the non-discrimination approach like mutual recognition, cross-border loss compensation or avoidance of double taxation are examined in more detail, proposing a more courageous handling of these obstacles to a fully-fledged Internal Market.

The editors of this book hope that the findings presented in this volume are well-received by an international audience, giving rise to further debate on the requirements of a European tax order which stretches “beyond discrimination”.

Liège, Louvain and Munich, September 2012

Isabelle Richelle

Wolfgang Schön

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