The Utility of Tax Residence Tests beyond Taxing Rights and the Concept of “Tests of Belonging” Given the Growing Number of Multilateral Provisions in the Context of Territorial Tax Regimes with Special Reference to Gibraltar and Hong Kong

This article discusses tax residence and its utility beyond a demarcation of taxing rights. Taking Gibraltar and Hong Kong as examples, it argues that the act of claiming tax residence is an act of sovereignty, and predicates participation in the international tax community for territories.

1. Introduction

In this article, the author discusses the origin of territorial tax regimes, i.e. regimes which tax simply the income that is sourced within their territory, and their place in the international taxation framework. He highlights the fact that, in purely internal terms, this position negates the need for a definition of tax residence. However, as the demands of the international community and provisions, such as those derived from the OECD/G20 Base Erosion and Profit Shifting (BEPS) Project, increase, it is clear that there is a strong utility for those territorial regimes to include a functioning definition of residence, even if such definitions do not affect the tax gathering activities of the local jurisdictions.

In this context, the author compares two differing approaches, i.e. those of Hong Kong and Gibraltar, and discusses the differences between these approaches before analysing the wider need for a “test of belonging” in international taxation. In doing so, he recognizes that the nature of such a test is an act of sovereignty and a claiming of rights and power over an entity or individual. The author then examines the situation by discussing the development of the “tests of belonging” in the OECD Common Reporting Standard (CRS), the OECD Mandatory Disclosure Regime (MDR) and the OECD Global Anti-Base Erosion (GLoBE) Pillar Two Model Rules.

2. Territorial Taxation Regimes in Context

Territorial tax regimes were once commonplace. The British Overseas Territories and colonies once commonly featured the territorial scope tax regime, with colonial administrations mounting territorial regimes which taxed only that income that arose within their territory, and the more devolved regimes, known as “dominions”, tending to have residence-based regimes. As the constitutional situation changed then this system moved on and as “dominion” status began to equate to “independence” and an expectation that the state should undertake more activity the logic behind such a difference began to fall away.

Such a situation, coupled with the residence and/or source model of international taxation proposed by the League of Nations in 1928 in their first Model Treaty meant that, in order to be a full member of the international taxation system, a territory should follow the approach recommended by the League and establish worldwide taxation based on the residence of a corporation as the baseline taxation position. However, a number of jurisdictions remained outside this network and the echoes of previous regimes can be seen among them. For instance, Gibraltar, Hong Kong and Malta all exhibit characteristics that are not common among taxation systems. With regard to corporations, Gibraltar has an explicitly territorial regime.


5. Draft Model Convention For the Prevention of Double Taxation and Tax Evasion League of Nations, 1928
where companies are concerned. Hong Kong retains a similar regime for corporations. In addition to these legacy jurisdictions with explicit territorial regimes, it has become common among major jurisdictions to move toward a more territorial scope of taxation by the use of various rules, such as participation exemptions.

It is also a feature of all of the legacy regimes known to the author that they feature a definition of tax residence, though this definition does not affect the taxability of the income of a corporation. The lack of a need for a residence nexus to give rise to taxability under a territorial regime means that the question “what is left of residence?” must be answered. In this article, the author argues that the delineation of tax residence, while redundant for tax purposes, amounts to a continued and important exercise of sovereignty and permits the fulfilment of international obligations by all jurisdictions. Its inclusion in territorial regimes also permits these jurisdictions to fulfill such obligations, while maintaining their fiscal diversity.

3. Defining Tax Residence

The two legacy territorial tax regimes most discussed are those of Gibraltar and Hong Kong. Despite their taxation systems both being derived from the same root in the British Empire, the two jurisdictions have adopted two different approaches for defining corporate tax residence. For instance, section 48A of the Inland Revenue Ordinance (IRO) of Hong Kong adopts the following approach:

Hong Kong resident person (香港居民人士) means a person who is resident for tax purposes in Hong Kong.

resident for tax purposes (税务居民) in relation to any double taxation arrangements, has the meaning given by the provisions of the arrangements relating to the determination of resident status.

However, section 74 of the Income Tax Act (ITA) 2010 of Gibraltar states that:

“ordinarily resident” means when applied to any company-
(a) a company whose management and control is in Gibraltar; or
(b) a company the management and control of which is exercised outside Gibraltar by persons who are ordinarily resident in Gibraltar for the purposes of this Act; and
(c) when applied to an investment company shall include in addition an investment company as so defined wherever resident control of which is exercised by persons ordinarily resident in Gibraltar: in relation to an investment company as so defined control shall be deemed to be exercised by a person if such person has power to secure by means of the holding of shares or the possession of voting power in or relation to that or any other company or by virtue of any powers conferred by the articles of association or other document regulating the affairs of any other company, that the affairs of that investment company are conducted in accordance with the wishes of that person;

The author believes there is no profit to be had in emphasizing the distinction between the terms “ordinarily resident” and “resident” in the Gibraltarian language in terms of corporate residence. This formation is used as a result of various historic inputs including a desire to stay as close to the language of the previous Income Tax Act (ITA) 1952 so as to be able to navigate the scrutiny of the EU Code of Conduct Group in 2010 when the ITA 2010 was being drafted. In practice, the term “ordinarily resident” is used synonymously with the terms “resident” and “tax resident” if only because those terms are not defined in the ITA 2010.

The approaches of both jurisdictions diverge. Hong Kong seeks to define residence by reference to international agreements. There is an implicit acknowledgement in this that residence has a utility in an international context but not in a domestic context. This is confirmed by the following:

whether a person is resident of Hong Kong is generally not relevant in determining their tax status under the IRO. Rather, the question is whether a person carries on a trade business or profession in Hong Kong: earns profits that arise in or derived from Hong Kong. However, in the context of the DTAs [double tax agreements] entered into by Hong Kong residence plays a pivotal role in determining a jurisdiction’s rights to tax particular profits.

In other words, seemingly, the definition is reactive. A company is resident because a tax agreement says it is, and, by logical extension, if it is not subject to a tax agreement it does not have a residence status. Hong Kong, however, has an extensive network of tax agreements as opposed to Gibraltar, which has one tax agreement based on the
form of the OECD Model,\textsuperscript{14} and that agreement network features more frequently in the lives of professionals, and, therefore, may explain the difference in approach.

The Gibraltar approach to defining tax residence is to take as a starting point the common law rule so clearly articulated by the UK House of Lords (HL) in \textit{De Beers} (1906).\textsuperscript{15} That is, that a company is tax resident where its central management and control sits as in Lord Loreburn’s formulation in \textit{De Beers} that:

[a] company resides... where its real business is carried on... and the real business is carried on where the central management and control actually abides.\textsuperscript{16}

However, as with Hong Kong law, in connection with a company, the concept of tax residence has no effect on the taxing powers of the Gibraltar authorities. Instead, the matter of taxation (as in Hong Kong) relates simply to those profits or gains, which are “accrued in and derived from” Gibraltar (as defined in section 74 of the ITA 2010).\textsuperscript{17} Accordingly, it would seem that the tax residence test is entirely redundant from a domestic perspective in respect of Gibraltar.

4. The Requirement for Tests of Belonging

As long as there has been an attempt to establish a unified international tax order, or even to rationalize the interplay of different tax jurisdictions where companies are concerned, it has been a matter of debate as to what the best method of ascertaining where a company “belongs”. For an individual, it is simple. A person is a citizen of or subject to a state, and it is possible to look at where that person sits, or lives, and is truly resident. For a corporation, matters are different, as it is an artificial legal construct, and so, in turn, its form of residence must be artificial and a construct. Lord Loreburn summed up the situation, when he said in \textit{De Beers} that:

in applying the conception of residence to a company, we ought, I think to proceed as nearly as we can upon the analogy of an individual. A company cannot eat or sleep, but it can keep house and do business. We ought, therefore, to see where it really keeps house and does business.\textsuperscript{18}

This line of reasoning can be seen to be derived from the work of Friedrich Carl von Savigny (1779–1861), when he said:

[domicile] is not therefore, properly applicable to legal persons. Yet even to those it may become necessary to assign something corresponding or similar to the domicile of natural persons – as it were an artificial domicile, especially in order to fix their forum. In most cases all doubt will be removed by the natural connection of the legal person with the soil... There may be doubt in the case of industrial associations, if their activity is either fixed to no locality, or extends over great distances… In such cases it is advisable at the first establishment of such a legal person to fix its artificial or constructive domicile; if this is neglected, the judge must endeavour to discover by construction the centre of its affairs [\textit{Mittelpunkt der Geschäftes}].\textsuperscript{19}

Setting aside Savigny’s use of the phrase “domicile” and not “residence”, it can be seen that, in the realm of jurisdiction of courts and the proper forum for action, there is a requirement to attribute a jurisdiction of belonging to the corporate entity. This position must extend to the realm of taxation. In a world where taxing acts were sparsely drafted and designed to tax individuals or unincorporated associations of individuals instead of the novel forms of corporate entities, a way to find belonging or connectedness for a legal construct must be found. Otherwise, the rival claims of jurisdictions in an ever increasingly connected world could not be satisfied.

In this context, Lord Loreburn in \textit{De Beers} rejected the argument that simple incorporation is the test, when he stated that:

[in] an individual may be of foreign nationality and yet reside in the United Kingdom. So may a company. Otherwise, it might have its chief seat of management and centre of its trading in England under the protection of English law, and yet escape the appropriate taxation by the simple expedient of being registered abroad and distributing its dividends abroad.\textsuperscript{20}

Here is a strong indicator of the motivations of the findings in \textit{De Beers}. Lord Loreburn is clearly motivated by what may now be described as “anti-avoidance” consid-
When does the UK sovereign reach out and tax a foreign entity, or when does the source of the income fall within UK sovereign reach? According to the Report on Double Taxation of 1923 (the "1923 Report"), 21 which was issued by the Financial Committee of the League of Nations, analysed not only the test of belonging which is tax residence, but also considered a number of other tests, though they settled on the best being that of "permanent residence", being:

[a] third possible principle is that of domicile or permanent residence. This is a more defensible basis and has many arguments in its favour. It is obviously getting further away from the idea of mere political allegiance and closer to that of economic obligation. Those who are permanently or habitually resident in a place ought undoubtedly to contribute to its expenses. 22 [Emphasis added.]

And further on, the 1923 Report stated that:

[i]n the starting-point of the modern theory must therefore be the doctrine of economic allegiance... The problem consists in ascertaining where the true economic interests of the individual are found. It is only after an analysis of the constituent elements of this economic allegiance that we shall be able to determine where a person ought to be taxed or how the division ought to be made as between the various sovereignties that impose the tax. 23

Once again, the language of "allegiance" and sovereignty is evident. The assertion by a state that an entity is resident within its jurisdiction is an assertion of rights and sovereignty over that entity, and a demand for allegiance, i.e., economic allegiance, i.e., the obligation to contribute if required. The authors of the 1923 Report believed that the two most relevant components of economic allegiance for international taxation were residence and the location of the source of the income. These two tests are answered by reference to the jurisdiction of a state, in summary the answers are: the source of the income is in State A and the entity is resident in State B, and must, therefore, be thought of in terms of sovereignty. The State has sovereignty over the wellbeing of the income, or over the place where the entity resides.

These quotes from the 1923 Report are included, as they form the bedrock of the thinking of the international taxation system as it exists, and as a result, in the author’s opinion, must have been the starting point for many of the debates which led to the OECD’s Digitalisation of the Economy Pillar One and Pillar Two proposals. What is the Pillar One if it is not a form of implementation of the "ideal solution" the authors of the 1923 Report articulated when they said:

[a] part of the total sum paid according to the ability of a person ought to reach the competing authorities according to his economic interest under each authority. The ideal solution is that the individual’s whole faculty should be taxed, but that it should be taxed only once, and that the liability should be divided among the tax districts according to his relative interests in each. 24

The Pillar One proposal amounts, in the author’s opinion, to a realigning of the international tax regime to the initial vision of the 1923 committee. A vision that they felt was unachievable in the context surrounding their work, but which seems somewhat more achievable in the environment of today.

This altered environment has increased the imperative for tests of belonging. The continuing efforts to ensure the elimination of tax avoidance and evasion have spawned a number of provisions that need to be applied to entities. Most notable among them are the US Foreign Account Tax Compliance Act (FATCA) 26 and the OECD’s CRS. 27 The act of implementing such standards (along with the Council of Europe/OECD Multilateral Convention on Mutual Administrative Assistance 28 ) is seen by the international community as a benchmark for whether a jurisdiction is "cooperative", and, therefore, able to participate fully in the international fiscal community. The European Union produces a list of jurisdictions that it classifies as "non-cooperative". Of the nine entries on the October 2021 "List of Non-cooperative jurisdictions for tax purposes", five "do not apply any automatic exchange of financial information" and "Tax Transparency", i.e., the implementation of the automatic exchange of information regimes, which is listed as the first requirement for

23. Id., at p 19.
24. Id., at p 20.
27. See OECD, CRS, supra n. 1.
inclusion on the list of non-cooperative jurisdictions in the EU’s documentation.\textsuperscript{29}

The architecture of the CRS\textsuperscript{30} is designed around the concept of “belonging” in several respects; those aspects are best summarized as:

i) CRS is not a regime designed to trigger reporting for nationals of the state in which the report is made. It is designed to trigger reports on accounts held by those who are non-resident in a jurisdiction who hold or control accounts in that jurisdiction.

ii) Whilst CRS is not designed to target the holding of financial accounts by resident individuals it does impose obligations on those financial institutions which have a nexus with the relevant jurisdiction.

In other words, there must be a test of belonging which is applicable to the account holder, i.e. they both do not belong to the implementing jurisdiction, and also that they do belong to a jurisdiction to which reports must be made. The CRS defines the relevant tests as follows:

“Reportable Jurisdiction Person” means an individual or Entity which is resident in a Reportable Jurisdiction under the tax laws of that jurisdiction.\textsuperscript{31}

And in connection with those institutions, it is necessary to report:

“Participating Jurisdiction Financial Institution” means (i) any Financial Institution resident in a Participating Jurisdiction but excludes any branch of that Financial Institution that is located outside such Participating Jurisdiction and (ii) any branch of a Financial Institution that is not resident in a Participating Jurisdiction, if that branch is located in a Participating Jurisdiction.\textsuperscript{32}

Both tests are described by reference to “residence”. The author believes that there is no functional difference between the use of the language “under the tax laws of that jurisdiction” and simply “resident in a Participating Jurisdiction”. He is not aware of any jurisdiction that seeks to make such a distinction. The EU Directive (Council Directive 2011/16/EU)\textsuperscript{33} implementing the CRS did seek to address the issue, when it stated that:

[a] Financial Institution is “resident” in a Member State if it is subject to the jurisdiction of such Member State (i.e. the Member State is able to enforce reporting by the Financial Institution). In general, where a Financial Institution is resident for tax purposes in a Member State, it is subject to the jurisdiction of such Member State and it is, thus, a Member State Financial Institution.\textsuperscript{34}

This makes explicit the link between residence and the sovereign boundaries of the Member State in question. If a financial institution is not subject to the “jurisdiction” of a Member State, it is not resident in a jurisdiction, and the measure of what “jurisdiction” amounts to is the ability to enforce reporting on a financial institution.

Such language of residence must have posed somewhat of a difficulty for the draftsmen of the Hong Kong implementation of the CRS. As discussed in section 3, the IRO contains no domestic definition of residence, and, as the section 48A definition quoted refers the taxpayer only to the text of treaties (which may, and, indeed, do vary) some compromise had to be found. The language chosen for the Inland Revenue (Amendment) (No. 3) Ordinance 2016,\textsuperscript{35} which inserted Part 8A of the IRO was as follows:

resident for tax purposes (稅務居民), in relation to a territory, means—

(a) an individual who is subject to taxation as a resident in the territory; or

(b) an entity that—

(i) is subject to taxation as a resident in the territory; or

(ii) has its effective management situated in the territory and is not subject to taxation as a resident in any other territory.\textsuperscript{36}

In other words, in order to be able to implement the CRS, the Hong Kong legislature had to adopt a specific piece of language to satisfy the requirements of the CRS. The author would argue that the definition of “resident for tax purposes” is somewhat misleading. An entity satisfying such a description would not be resident “for tax purposes” as it would be resident for the purposes of the CRS. However, in order to navigate the choppy waters between a reporting standard based on an essentially alien concept and a territorial regime, the draftsmen had to find a form of words compatible with the CRS. This position is it, inaccurate though it is.

In Gibraltar such matters were not a concern. This situation arose, as the functioning definition “ordinarily resident” was sufficient to satisfy the CRS.

Similarly, with the up-coming MDR being rolled out by the OECD in the Introduction to its Model Mandatory Disclosure Rules for CRS Avoidance and Opaque Offshore Structures,\textsuperscript{37} the model mandatory disclosure rules only impose disclosure obligations on Intermediaries that have a sufficient nexus with the reporting jurisdiction. This will include an Intermediary operating through a branch located in that jurisdiction as well as an Intermediary that is resident in, managed or controlled, incorporated or established under the laws of that jurisdiction.\textsuperscript{38}

This state of affairs goes further than the CRS definition, which discusses whether an institution or individual is resident (see the definition of “Reportable Jurisdiction Person” discussed above) and the elaboration in the EU Directive (Council Directive 2011/16/EU), which discusses “jurisdiction” and the ability to enforce the CRS on an institution. Instead, under the MDR definition, a

29. EU Secretariat to the Council, Criteria and process leading to the establishment of the EU list of non-cooperative jurisdictions for tax purposes – Council conclusions (8 Nov. 2016).

30. The focus is on the OECD, CRS supra n. 1, as opposed to FATCA, as the OECD, CRS supra n. 1 is a true global standard for mutual exchange of information (unlike FATCA, which is a notoriously one-way affair), and, as such, the test of belonging is required for both sides of the coin representing the OECD, CRS, supra n. 1.

31. Id., at Section VIII (D)(3).

32. Id., at Section VIII(A)(2).

33. Id., at Annex II Para 3.

34. HK: Inland Revenue (Amendment) (No. 3) Ordinance 2016.

35. Id., at sec. 4


37. Id., at I Introduction para 11.
definition can be seen, which discusses first "residence", then management and control and finally incorporation and establishment as a series of tests. This stance is far more expansive than a simple tax residence test. However, any jurisdiction seeking to assert its sovereignty over an entity would surely seek to have a functioning "residence" test so as to avoid falling onto the vagaries of a managed and controlled test, and then a backstop of incorporation. The presence of a tax residence test in domestic law adds certainty and clarity.

In a final example the Pillar Two regime proposed to be introduced by the OECD over the coming years does seem to take into account the possibility that a tax regime may not have a domestic tax residence test. In this regard, article 2.1 of the GLoBE Rules reads:

2.1.1 A Constituent Entity, that is the Ultimate Parent Entity [UPE] of an MNE Group, located in [insert name of implementing jurisdiction] that owns (directly or indirectly) an Ownership Interest in a Low-Taxed Constituent Entity at any time during the Fiscal Year shall pay a tax in an amount equal to its Allocable Share of the Top-Up Tax of that Low-Taxed Constituent Entity for the Fiscal Year.

2.1.2 An Intermediate Parent Entity of an MNE Group located in [insert name of implementing jurisdiction] that owns (directly or indirectly) an Ownership Interest in a Low-Taxed Constituent Entity at any time during a Fiscal Year shall pay a tax in an amount equal to its Allocable Share of the Top-Up Tax of that Low-Taxed Constituent Entity for the Fiscal Year.

[Emphasis added.]

In order to ascertain the allocation of taxing rights under the GLoBE proposal, it must be understood that the "location" of the entities in question. Similarly, in article 1.2 of the GLoBE Rules, the definition of MNE Group (and, therefore, the definition of what groups that are, or are not, included in the scope of the GLoBE Rules) is stated as being:

1.2.1 An MNE Group means any Group that includes at least one Entity or Permanent Establishment [PE] that is not located in the jurisdiction of the Ultimate Parent Entity [UPE].

Accordingly, it is necessary to seek out the definition of "located". This definition is to be found in article 10.3.1 of the GLoBE Rules, which reads:

10.3.1 The location of an Entity that is not a Flow-through Entity is determined as follows:
(a) if it is a tax resident in a jurisdiction based on its place of management, place of creation or similar criteria, it is located in that jurisdiction; and
(b) in other cases, it is located in the jurisdiction in which it was created.

In other words, an entity is located in a jurisdiction in which it is tax resident, or, in the absence of a domestic tax residence test, where it is incorporated. This situation is a further development from the MDR test (and the author is firmly of the opinion that the three tests – the CRS, the MDR and the GLoBE – can be viewed through an evolutionary lens). It also adds greater clarity by removing the second "managed and controlled" test from the MDR test, and boils things down to the following two tests:

i) Apply local law as to tax residence (as long as local law defines as such based on the two criteria listed).

ii) In the absence of a tax residence test, or if there is one and it is unacceptable as it does not use the three criteria listed at 10.3.1(a), location is based on incorporation.

This approach is very interesting in the sense that it defines what is, and what is not, an acceptable tax residence test. Perhaps, there is a fear that jurisdictions will concoct obscure and unreasonable residence tests to seize control of the GLoBE taxation? That cannot be known. What can be known is that it both outlines what is acceptable, i.e. tests based on management or incorporation, and also recognizes the importance of a "back-stop" approach, and that can only be based on an understanding that not all tax systems are the same. There is also no single "norm" that should be asserted above others.

The drafters of the GLoBE Rules seem to acknowledge that, while it is normal for jurisdictions to exercise sovereignty over entities within their jurisdiction by applying a "test of belonging" in some cases, even though sovereign rights exist. (i.e. there could be a tax residence definition), they may not always be exercised. Such a situation is to be welcomed.

It also highlights the importance of the domestic tax residence test to "seize the initiative" in the Pillar Two taxing process. Imagine a Cayman Islands company that is managed and controlled in Gibraltar. It is a holding company that would be classed as an Ultimate Parent Entity (UPE) for the purposes of the GLoBE. If Gibraltar law did not contain the definition of "Ordinarily Resident" in section 74 of the ITA 2010, there would be no local law in existence to satisfy the test contained in article 10.3.1 of the GLoBE Rules and the Cayman Islands would be the place of "location" for the purposes of the GLoBE. This state of affairs would seem a failure in the exercise of sovereignty by Gibraltar.

5. Conclusions

Tax residence was originally developed so that the taxing rights of a sovereign territory could be exercised. Consequently, the defining in respect of which entities were, and were not, tax resident in a territory became as important as the defining of which persons were, or were not, citizens of that territory, or, in the case of devolved jurisdictions such as Gibraltar and Hong Kong, who did or did not have the right of entry.

Sovereignty means nothing if it does not mean the right to tax those entities that are sufficiently connected to the taxing territory. That right need not be exercised, but it needs to be respected. Tax should only be imposed to the level which is required by the needs of the territory in question, insofar as it does not leave matters open to abuse, and the integrity of diverse systems should be respected so far as they are not designed deliberately to facilitate abuse.

38. OECD, GLoBE Rules, supra n. 3.

39. Id., at Article 10.3.1.
In an age of ever-increasing multilateral agreements part of ensuring the territorial systems of such jurisdictions as Hong Kong and Gibraltar are not abused is to ensure that those territories can enforce the requirements of the multilateral agreements they have entered into and also to benefit from them. That situation requires a delineation of their sovereignty and those entities which fall within it. Without doing so in the form of a test for “tax residence” or more accurately simply “residence” the limits of their sovereignty would not be outlined, and such jurisdictions would be unable to maintain their less than common tax base.

Finally, it may well be that a secondary tradition of “tests of belonging” may develop separate to pure tax residence (as it seems is being developed through the OECD’s growing number of provisions). Until it does so, a strong and internationally acceptable test for “tax residence”, even if such a test has no domestic tax effect, is a preferable approach to omitting such a test for those territories that maintain non-traditional tax bases such as territorial regimes.

Cumulative Index

Articles

China (People’s Rep.)
Cui Xiaoqing and Chen Jingxian: Building a Belt and Road International Tax Dispute Prevention and Resolution Mechanism 170

European Union
Marco Dietrich and Cormac Golden: Consistency versus “Gold Plating”: The EU Approach to Implementing the OECD Pillar Two 183
Stefan C. Hammnerl and Lily T. Zechner: Administering Profit and Consumption Taxation in Market Jurisdictions: Selected Similarities in the Digital Era 2


Bob Michel:
– International Association of Tax Judges Webinar: Tax Procedures and Landmark International Case Law in India 14


Gibraltar
Grahame Jackson:
The Utility of Tax Residence Tests beyond Taxing Rights and the Concept of “Tests of Belonging” Given the Growing Number of Multilateral Provisions in the Context of Territorial Tax Regimes with Special Reference to Gibraltar and Hong Kong 290

Hong Kong
Grahame Jackson:
The Utility of Tax Residence Tests beyond Taxing Rights and the Concept of “Tests of Belonging” Given the Growing Number of Multilateral Provisions in the Context of Territorial Tax Regimes with Special Reference to Gibraltar and Hong Kong 290

India
Bob Michel:
International Association of Tax Judges Webinar: Tax Procedures and Landmark International Case Law in India 14

International
Brian J. Arnold:
– An Investigation into the Interaction of CFC Rules and the OECD Pillar Two Global Minimum Tax 270
– The Ordering of Residence and Source Country Taxes and the OECD Pillar Two Global Minimum Tax 218

Mark L. Brubacz:
Non-Discrimination and Transparent Entities 133

Richard S. Collier and Ian F. Dykes:
On the Apparent Widespread Misapplication of the OECD Transfer Pricing Guidelines Risk and Post-BEPS Problems for the Arm’s Length Principle 20

Cui Xiaojing and Chen Jingxian:
Building a Belt and Road International Tax Dispute Prevention and Resolution Mechanism 170

Pitambar Das and Amedeo Rizzo:
The OECD Global Minimum Tax Proposal under Pillar Two: Will It Achieve the Desired Policy Objective? 44

Marco Dietrich and Cormac Golden:
Consistency versus “Gold Plating”: The EU Approach to Implementing the OECD Pillar Two 183

Erik Guedes Franklin Dantas Lourenço:
Tax Challenges of the Digital Economy: An Evaluation of the New OECD Nexus Rule Based on Revenue Thresholds 197

Stefan C. Hammnerl and Lily T. Zechner:
Administering Profit and Consumption Taxation in Market Jurisdictions: Selected Similarities in the Digital Era 2

Grahame R. Jackson and Harriet Brown:
The Role of Context in Interpreting International Tax Instruments: A Solution to the Erosion of Internal Cohesion of Domestic Tax Systems by International Law? The EU Directive on Administrative Cooperation Version 6 (DAC6) – A Case Study 54

Belisa Ferreira Liotti:
Limits of International Cooperation: The Concept of “Jurisdiction Not to Tax” from the BEPS Project to GloBE 63

[continued on page 307]