The discrepancy between "ideal" and"real world" international tax rules.

Braun, Julia

DOI:
10.2139/ssrn.2171782

Published: 25/10/2012

Document Version
Publisher's PDF, also known as Version of record

WU International Taxation Research Paper Series

No. 2012 - 10

The discrepancy between "ideal" and "real world" international tax rules. What drives politicians when making the rules?

Julia Braun

Research Papers

The Discrepancy between „ideal" and „real world" international tax rules. What drives politicians when making the rules?*

Julia Braun‡

October 25, 2012

The current international tax system diverges greatly from a theoretically "optimal" tax system. One reason for this discrepancy may be that politicians strive for other objectives rather than making tax rules that comply with the theoretical concepts of optimal taxation. In this article, I overview the approaches used in the economic and legal literature to explain the motivations of the people making international tax policy and contrast them with observations from the "real world". This article illustrates that the making of international tax policy is affected by many different factors: domestic pressure groups and the structure of the international tax system, along with self-interested politicians and bureaucrats. Considering the complexity of the conditions under which international tax policy is made, it is not astonishing that international tax law deviates from the principles characterizing ideal taxation.

Keywords: international tax policy, optimal taxation, global efficiency, national welfare, Public Choice Theory, Game Theory

JEL Classification: F50, F53, H21, H25, H87, K34

----

* I would like to thank Eva Eberhartinger, Daniel Shaviro, Martin Zagler, and the participants of the doctoral seminar of International Tax Policy at the WU Vienna University of Economics and Business for their helpful comments. All remaining errors and inaccuracies are, of course, my own. Financial support from the Austrian Science Fund (FWF grant no. W 1235-G16) is gratefully acknowledged.

‡ DIBT Doctoral Program in International Business Taxation at WU Vienna University of Economics and Business, julia.braun@wu.ac.at

1. Introduction

International tax rules are frequently criticized as violating the principles of efficiency, equity, and simplicity. This observation raises the question as to where the divergence between ideal and "real-world" tax rules originates. The hypothesis of this article is that this discrepancy is *inter alia* caused by the fact that the politicians making international tax rules actually do not seek to create "ideal" rules in the light of tax theory but rather have other objectives in mind. It is quite evident that "it cannot simply be assumed that actors pursue the goals of equity and efficiency per se" (Rixen, 2008: 83).

But what goals do politicians strive for? This article overviews the approaches used in the economic and legal literature to explain the motivations behind those people who make international tax policy, contrasting them with some "real world" observations. The purpose is to show that the motivations of those involved in international tax policy contribute to the inefficiency, inequity, and complexity of the international tax system.

The article proceeds as follows. After having explicated the characteristics of international tax policy (Section 2), I will elucidate in more detail the theoretical principles that international tax rules should comply with (Section 3). Subsequently, alternative explanations of the objectives of international tax policy will be presented and analyzed with regard to their relevance in explaining international tax rules as we see them in the real world (Section 4). Specifically, I will examine the propositions that fundamental principles of tax policy (4.1), global efficiency norms (4.2), and national welfare (4.3) may be the main objectives for politicians involved in making international tax policy. Subsequently, I will investigate – in the light of Public Choice Theory – the influence of different societal groups on the law making process (4.4). Finally, I will talk about the Game Theory framework, which can prove valuable in modeling strategic interactions of different countries in the international tax game (4.5). The article ends with a brief conclusion (Section 5).

2. International tax policy

In the course of the global integration of economic activities since World War II, corporations have increasingly engaged in cross-border activities. As a result of the growing international business and capital flows, the national tax regimes have also become more and more interrelated (Bovenberg, 1994: 1). Virtually all jurisdictions hence have established a policy framework laying down how (i) foreign-source income earned by their residents is taxed, and how (ii) income of non-residents derived from within their territory is taxed. To these purely domestic rules, there is the addition of "complementary rules" which are primarily stipulated in tax treaties and may override domestic rules (Brauner, 2003: 265). These three sets of rules are at the core of international taxation, which may accordingly be defined as

> "the body of legal provisions of different countries that covers the tax aspects of cross-border transactions" (Holmes, 2007: 2).

Conversely, most scholars[1] agree that the term "international tax" is in some sense "a misnomer" as national governments largely maintain their sovereignty in tax matters (Rixen, 2008: 2) and there is "no overriding international law of taxation" (Li, 2003: 31).

The European Union is the remarkable exception in this respect (Holmes, 2007: 3). In order to achieve the proper functioning of the common market, the European Union has strived to eliminate all obstacles to the free movement of goods, capital, and persons (Terra and Wattel, 2001: 30). As different national tax systems may impede the working of the internal market, an integration of each nation's tax laws – at least to a certain extent – is vital (ibid). Albeit direct taxation being in principle still in the hands of the Member States, the Council has thus harmonized some aspects of cross-border taxation[2] (Adamczyk, 2010: 23ff).

Apart from the supranational aspects of the tax systems in the European Union, international taxation generally consists of three institutional layers (Rixen, 2008). First, governments unilaterally set international tax rules that intend to prevent both double taxation (such as the tax exemption or credit method for foreign-source income) and undertaxation (such as controlled-foreign-company (CFC), thin capitalization, or transfer pricing rules). Second, governments agree to bilateral double tax treaties (DTTs) that also aim at eliminating double taxation and at preventing tax evasion. Multilateral coordination in forums specialized in international tax issues constitutes the third layer. Of special importance is the cooperation within the framework of the Organization for Economic Co-operation and Development (OECD) and the United Nations (UN), which both issue model tax conventions. Even though these conventions do not have legal force, they are highly relevant as they form the basis of virtually all bilateral DTTs (Rixen, 2008). In particular, the OECD constitutes a central "institutionalized forum for tax policy" for the multilateral sharing of information and experience, as well as for the setting of topics, *e.g.* through the project on "harmful tax coordination" (ibid: 84f). With this institutional setting in mind, I will now turn to focus on the possible objectives of international tax policy.

[1] See for instance M. Graetz, D.Rosenbloom, J. Roin, M.Kane, and T. Dagan. Conversely, R. Avi-Yonah claims that the domestic tax laws and the tax treaty network actually form an international tax system. This system is potent in the sense that it is difficult for countries to unilaterally change their international tax policies in a way that collides with the principles of the established international tax system, i.e. the single tax principle and the benefits principle (Avi-Yonah, 2007: 1).

[2] The Council thus has issued the Parent-Subsidiary Directive, Merger Directive, Interest and Royalties Directive, Mutual Assistance Directive, Recovery Assistance Directive, and Savings Directive (Adamczyk, 2010: 25f).

3. The discrepancy between ideal tax rules and "real world" international tax rules

There is a broad agreement among scholars and politicians alike that efficiency, fairness, and simplicity represent the principles that should govern international tax policy. As Graetz puts it in his David R. Tillinghast lecture in 2001:

> "Since Adam Smith it has been commonplace to say that a tax system should be fair, economically efficient, and reasonably easy to administer and comply with" (p. 294).

A tax system is regarded as efficient if it impacts as little as possible the decision-making processes of market participants (Terra and Wattel, 2001: 30). Investors' decisions are said to be most efficient when they are based solely on pure economic criteria and are not distorted. That is, in the sense that the pre-tax ranking of alternative investments differs from the ranking of the same alternatives when taxation is taken into account (ibid). The exception to this general rule are Pigouvian taxes, that aim at correcting market imperfections caused by externalities, and thus precisely seek to change people's behavior (Case, 1986: 121f). Fairness – or tax equity – comprises of two aspects: taxpayers with a similar ability to pay should be subject to a similar tax burden (horizontal equity), while taxpayers with different resources or incomes should incur a different tax treatment (vertical equity) (Mintz and Weichenrieder, 2011: 144). Moreover, a tax system should comprise of simplicity, in the sense that it consists of enforceable tax rules and entails low administrative and compliance costs. "Neutrality", i.e. "similar tax burdens on similar individuals or business activities", is another commonly postulated feature of an ideal tax system, which is in line with efficiency, horizontal equity (i.e. fairness), and simplicity (ibid).

However, when we look at the "real world" tax rules, we see quite the contrary to what is postulated in theoretical debates. The impact that tax rules have on economic decisions of taxpayers is ubiquitous (Graetz, 2001). Taxpayers arrange their affairs in order to take advantage of some rules or to circumvent others.

The flows of foreign portfolio investment (FPI) and foreign direct investment (FDI) to the United States (U.S.) illustrate this well. As of 2008, four among the top ten source countries of equity FPI flows into the U.S. were jurisdictions often characterized as tax havens (Switzerland, Cayman Islands, Singapore, and Bermuda) (Hanlon *et al*., 2012: 33). Furthermore, tax haven jurisdictions such as the Cayman Islands, Bermuda, Netherlands Antilles and Bahamas were the countries with the highest equity FPI flows to the U.S. in relation to the size of their populations (ibid). Moreover, the figures of FDI flowing to the U.S. reveal that after Switzerland and the United Kingdom, Luxembourg was the most important source of FDI flows into the U.S. as of 2010 (OECD, 2010). The amount of FDI flows stemming from Luxembourg was almost as large as the amount that originated from Canada and France combined (ibid). Such numbers are certainly also a result of tax considerations (Graetz, 2001: 267). Albeit these Luxembourgian FDI flows may reflect mainly the virtual shifting of activities, this triggers substantive costs related for example to the underlying paper shuffling or the round-tripping of funds. Moreover, economic research has reached a consensus that tax considerations also impact cross-border investment flows, and thus affect also actual economic activities such as the relocation of factories (see *e.g.* De Mooij and Ederveen, 2003 and 2006; Devereux and Griffith, 1998; Devereux, 2007; Morisset and Pirnia, 1999).

Rather than associating with the claim for simplicity, the complexity of the international tax system is rather more commonplace (Shaviro, forthcoming, Chapter II: 1). The highly complex international tax rules of the U.S. trigger planning and compliance costs that are "disproportionately high relative to their role in the activities of the corporation" and "extremely high relative to the revenue raised by the U.S. government on this income" (Blumenthal and Slemrod, 1996: 48).

The complexity of the international tax system also impacts the equity (fairness) between taxpayers. Only very few citizens would call the international tax system "fair" (see *e.g.* Hufbauer and Kim, 2009, or Puzzanghera, 2011). It is often regarded as unfair simply because few people can truly understand it, and those that can take advantage of the complexity of the system, for instance, wealthy private persons hiring talented tax lawyers or large corporations with their tax planning departments can save a great deal of their tax debt as compared to others that do not have such resources (Kirchhof, 2011). Also, purely domestic corporations recurrently complain about the unfairness of the international tax system. As a result of tax arbitrage opportunities offered by the interplay between different tax systems home and abroad, numerous tax avoidance opportunities, such as deferral of the repatriation of taxable income, profit-shifting, or tax treaty shopping, are available options for multinational enterprises (MNEs), providing them with "unfair" advantages in comparison with purely domestic firms (*e.g.* Holmes, 2007, Rixen, 2008: 82f, Shaviro, forthcoming, Ch. I: 2). Overall, as Rixen puts it:

> "Even a cursory look suffices to show the actual rules of international taxation are not in line with the normative ideals of international tax theory" (2008: 82).

The actual international tax system thus has little in common with the postulated "optimal" tax system. One reason for this might be that politicians actually strive for other goals than to make tax rules fulfilling theoretical concepts of optimal taxation. Evidently, there are other issues that contribute a great deal to the inefficiency, unfairness, and complexity of the international tax system. Already inbuilt features such as the realization requirement (Potter, 1999), income taxation instead of say a lump-sum tax (Nicodème, 2008: 2), or entity-level taxation (Shaviro, forthcoming, Ch. II: 3) lead to considerable troubles. This article posits that the politicians' motivations also add to the problems of the international tax system (also see Shaviro, forthcoming: Ch. III: 16). In the following, I will present the approaches of legal and economic writers attempting to explain politicians' objectives.

4. Alternative explanations of the objectives of the persons involved in international tax policy

The motivations governing politicians are wide-reaching and diverse. First, I will examine in how far the two fundamental principles of tax policy, the benefit principle and the ability-to-pay principle, might be regarded as guiding lights for politicians when making international tax rules.

4.1 The benefit and ability-to-pay principles

The two fundamental normative principles in tax theory are the benefit principle and the ability-to-pay principle (Schön, 2009: 71). According to Julie Roin (2001), the benefit principle constitutes the most appropriate way in which to think of the corporate tax (in Shaviro, 2011: 75). This principle proposes that the tax a corporation pays should be viewed as a compensation for the benefits that the corporation obtains from the jurisdiction in which it operates, such as security, police services, or infrastructure (Schön, 2009: 75). In reality, however, we observe that the tax burden of corporations does not depend on the support received by the state but rather on the amount of income generated.

The ability-to-pay principle postulates that a taxpayer should contribute to society according to his or her consumption power (Schön, 2009: 71). In the context of corporate taxation, this principle frequently is interpreted that a corporation's tax burden is based on its total net income. However, both source and residence taxation methods violate this principle (Rixen, 2008: 82). Source taxation usually takes into account only the income generated within the jurisdiction and not the corporation's total income (McLure, 2000: 6: 4f, in Rixen, 2008: 82). Residence taxation following the exemption method goes against the ability-to-pay principle, as foreign-source income is exempted from the tax base in the residence country, even though it augments the ability-to-pay as much as domestic income. The same is true for the credit method when deferral of income generated abroad is allowed (Rixen, 2008: 82). Fundamental features such as the calculation of the corporate income tax burden based on the profits earned or the concepts of source and residence taxation infringe the benefit and the ability-to-pay principles. It could hence be concluded that these doctrines were probably not the main guidelines when the structure of the international tax system was established.

4.2 Global efficiency norms

Global efficiency norms form a large part of the discussion of international tax policy. Domestic tax policy debates usually are dominated by the insight that both efficiency and equity should be the goals of tax policy. Analyses in international taxation conversely start very often from the assumption that maximizing global efficiency[3] constitutes the appropriate policy objective (Graetz, 2001: 270).

Economists have developed various norms that, if followed by politicians, are regarded to advance global economic efficiency. The two oldest and thus far most influential ones are Capital Export Neutrality (CEN) and Capital Import Neutrality (CIN), which were introduced by Peggy Musgrave (née Richman) in the 1960s (Richman, 1963; Musgrave, 1969). These two neutralities have shaped the debate so deeply that they are said to "span the normative universe" of international taxation, and a great deal of the discussion deals only with the question as to which of the two is preferable (Graetz, 2001: 271).[4] Desai and Hines (2003) added the Capital Ownership Neutrality (CON) to the "soup of neutralities" – as dubbed by Shaviro (forthcoming, Ch. I: 6). The idea underlying these norms is that if they were fulfilled, capital would be allocated most efficiently globally and investors would potentially obtain the highest possible yield on their investments (Holmes, 2007: 13).

On the one hand, CEN postulates that foreign-source income and domestically generated income should be subject to the same effective tax burden, so that the tax system does not favor one type of income over the other (Schön, 2009: 79). That is, CEN claims that taxpayers should fall under the same effective domestic tax rate regardless of whether they derive their income from at home or abroad. It is commonly assumed that worldwide taxation of investors in their home country would be most suitable to realize CEN (Holmes, 2007: 11).

CIN, on the other hand, strives to achieve neutrality from the perspective of the host state (Schön, 2009: 79). Both domestic and foreign investors should face the same effective tax rates on income derived in the host country. This neutrality is generally thought to comply with a territorial tax system that exempts foreign-source income (ibid).

CON, finally, "pleads for a tax system where the transfer of an investment to a new investor is not distorted by a tax wedge" (ibid: 81). This neutrality is put into effect with either pure source-taxation or pure residence-taxation by all jurisdictions (ibid). As opposed to the two above-mentioned neutralities, CON takes into account that the return on an investment may vary according to the investors. For instance, a MNE being able to take advantage of certain economies of scale may

[3] Global welfare, or global economic efficiency, is in this framework defined as the sum of global tax revenues and firm profits (Schön, 2009: 83).

[4] As concerns to the theoretical request for neutrality, there is no agreement as to whether CIN or CEN is the better concept of neutrality. The coexistence of both exemption and credit method does not lead to any sort of neutrality (Schön, 2009).

extract a higher yield from a specific investment than a smaller company might do (ibid). One considerable advantage to this approach when compared to the CEN and CIN methods is that the CON method brings the ideas of the theory of the firm (as pioneered by Dunning, 1977) into the theory of international business taxation (Shaviro, forthcoming, Ch. I: 8). However, all the above mentioned neutralities[5] share some problematic features:

> "Each of these efficiency norms describes a single margin of choice at which (all else equal) the tax system ought to be neutral, so taxpayers will make choices at that margin based on pre-tax profitability. This is a common efficiency standard, reflecting that taxes paid are a cost from the taxpayer's standpoint but a transfer from the social standpoint, given that someone else will get the benefit of using the revenues. None of these rival acronyms even purports to address the full efficiency picture, much less to incorporate equity concerns. Yet each, according to proponents, ostensibly determines, all by itself, the answer to a whole set of international tax policy questions" (Shaviro, forthcoming, Ch. III: 2).

This means that from a normative standpoint none of these neutralities is desirable as the only guiding principle in the complex international tax system, even though this is exactly what their proponents often assert.[6] In the light of these arguments, I will turn to the question as to whether there is any evidence or it is conceivable that these global efficiency norms guide politicians when making the rules of international tax policy in practice.

U.S. international tax policy

Looking back at the 1920s, when the structure of the U.S. and the international income tax systems came into being, we clearly see that global efficiency norms did not play a very important role in academic and political discussions at that time (Graetz, 2001: 275). Practical issues, such as the administering, enforcing and collecting of taxes were more influential. Moreover, considerations regarding fairness among taxpayers also had a role to play. The claim for source taxation, for instance, was mainly motivated by fairness and not so much by efficiency considerations, as opposed to current tax policies where CIN usually constitutes the normative basis for territorial tax systems (Graetz, 2001: 298). Similarly, the foreign tax credit was not introduced for reasons of efficiency (to comply with CEN as would probably be asserted today), but for "mercantilist reasons", that is in

[5] This holds also for the neutralities striving to promote national welfare addressed in section 4.3.

[6] There are also other arguments against the use of these global efficiency norms as guidelines for international tax policy, *e.g.* problems in the strict underlying assumptions. Musgrave's analysis is based on perfectly competitive markets; externalities and economies of scale or scope are assumed away; domestic and foreign investments are deemed to be substitutes; the global capital stock s assumed to be fix; individual taxes are entirely ignored; the analysis confined to outbound investment, while inbound investment is ignored; and also reactions of other governments are ignored (Graetz, 2001: 287ff).

order to support U.S. companies to invest and do business abroad (Graetz, 2004: 210; Graetz and O'Hear, 1997: 1045ff). It is fair to deduce, therefore, that at the beginnings of the international tax system, national welfare considerations drove the decision makers much more than concerns about global welfare. This does however not mean to suggest that the particular players were altruistic about their decisions when it was in conflict with their own personal benefit.

Also in later years, considerations other than those for global efficiency frequently drove the modifications of the international tax policy framework. For instance, it is often claimed that the tax proposals made by the Kennedy Administration in 1962 had intended to implement CEN as the foundation of the U.S. international tax system (Graetz, 2001: 275). However, as Graetz (2001) illustrates, when examined more closely, the Administration's proposals were not fully in line with CEN principles. Nevertheless, Congress did not endorse the Kennedy Administration's proposals, instead, the subpart F rules[7] were adopted. This is generally seen as the beginning of the "U.S. international tax policy as compromise between CEN and CIN" (ibid: 275). Moreover, at the same time, measures aiming at fostering domestic U.S. investment were enacted (ibid). This is clearly evidence that for both the Kennedy Administration and the Congress, global efficiency norms were not primary policy goals. Rather, the rules proposed and passed in 1962 indicate that politicians were more interested in promoting national economic performance (ibid).

It should be noted that the global efficiency norms are not only invoked for altruistic motivations. Frequently, people pursuing their own interests put forward these efficiency norms to back up their cause (Shaviro, forthcoming; Ch. III: 15). U.S. Multinationals wishing to boost outbound investment appeal to CIN on the grounds of "international competitiveness". In the United Kingdom (U.K.), the move from the credit towards the exemption system was spurred by business interests in view of the unilateral goal to advance the attractiveness of the U.K. for businesses (ibid).

Tax treaty policy

When considering tax treaties between countries, it is often suggested that promoting global efficiency is the main motive for signing them. It is commonly accepted that one of the purposes of a tax treaty is to reduce international double taxation and thus to promote the free movement of persons, capital and goods and capital – thereby encouraging an efficient global allocation of resources (Dagan, 2000). Conversely, double taxation can also be effectively alleviated by unilateral measures. There is also a further motive for signing DTTs: to diminish the opportunities for tax avoidance and evasion, *inter alia* encouraging enhanced information exchange (see *e.g.* Davies, 2003: 260f).

[7] Generally, income earned by U.S. residents abroad only becomes taxable in the U.S. when it is repatriated. There are, however, some exceptions to that rule, notably the so-called subpart F rules. This set of rules identifies certain foreign-source types of income that are subject to taxation in the U.S. as soon as they arise – even if not repatriated (Shaviro, forthcoming: 44f).

Tsilly Dagan (2000) claims that residence countries do not strike DTTs because they are concerned with fostering global efficiency, rather they are interested in boosting national tax revenues. In her paper, which examines different ways of relieving international double taxation, she demonstrates that DTTs are not needed to prevent international double taxation. Preventing double taxation unilaterally is a stable equilibrium. She argues that the difference between unilateral double tax alleviation and double tax relief by means of a DTT is only that with a DTT a residence country gets a larger share of the tax revenues on the cross-border income (also see 4.5). Dagan thus concludes that besides mitigating bureaucratic difficulties and offering the signatory states a platform to harmonize their tax concepts, DTTs in fact redistribute tax revenues from source states to residence states. This claim may be supported by the fact that DTTs tend to be more common between peer countries with similar economic interests.

From the above information it is clear that considerations for global welfare have not been the primary driving forces in international tax policy. Rather, it appears much more convincing that also national welfare concerns have motivated decision makers. This national welfare argument will be examined in the next section.

4.3 National welfare

What stands behind the concept of "national welfare"? Do politicians really strive to maximize national welfare as has been asserted above? Numerous authors assume that governments seek to promote their own national interests rather than global welfare (*e.g.* Rixen, 2008, 2011; Graetz, 2001; Shaviro, 2011; Holmes, 2007).

Economists tend to (over)simplify the matter and commonly equate economic welfare with a country's gross national product (GDP), i.e. the sum of investment, consumption, government spending, and net exports (see *e.g.* Blanchard, 2010). Due to discontentment with the traditional indicators such as GDP, how to measure a nation's economic performance has received great interest in the current literature to date.[8] Nevertheless, the question as to what "national welfare" comprises of is in the end a philosophical question. I do not, however, want to delve into this debate but rather look at how economic models of international taxation operationalize national welfare.

National efficiency

A great deal of the literature on international taxation posits that governments generally strive to advance the national economic efficiency. This strand has developed various national efficiency norms similar to the global efficiency norms described above, known as National Neutrality (NN), National Ownership Neutrality (NON), and Global Portfolio Neutrality (GPN).

---

[8] The most noted contribution to this recent debate probably comes from the Commission on the Measurement of Economic Performance and Social Progress, which had been created by the French government and charged to think about new ways of measuring economic and social development (http://www.stiglitz-sen-fitoussi.fr/en/index.htm).

NN developed by Peggy Musgrave (1963) as a complement to CEN and CIN models claims that national welfare maximization is achieved if income generated abroad is taxed at the full domestic rate and the taxes paid abroad are simply deductible like any other expenses for corporations (Shaviro, 2011: 75ff). This approach to dealing with foreign source income cannot, however, be observed in real world. It simply does not occur. One reason may be that governments want to support "their" MNEs so to be successful in the world markets. Thus, home-grown MNEs are not burdened with the heavy tax debt implied by the NN principle but rather are granted tax credits unilaterally (Schön, 2009: 84).

NON[9], asserts that if a corporation's income generated abroad is exempted from domestic taxation, the corporation would strive to maximize the profitability of both its foreign and domestic assets (Desai and Hines, 2003: 496; Hines 2009: 278 in Shaviro, forthcoming, Ch. III: 45). If only this source-taxation is realized, distortions are minimized and national welfare maximized.

Even though NN and NON may appear similar, they differ fundamentally. While NN ensures that overall tax distortions for taxpayers are minimized, NON "is about eliminating tax distortions at one margin and ignoring the fact that they still exist at other margins and that efficiency ought to dictate minimizing the sum" (Shaviro, forthcoming, Ch. III: 46).

While the neutrality principles explained above target cross-border investment by MNEs, GPN, developed by Desai and Dharmapala (2009) is a policy norm that claims an efficient tax treatment of Foreign Portfolio Investment (FPI). This framework takes into account that FPI (as opposed to FDI) is motivated mainly by considerations regarding risk and portfolio diversification (Desai and Dharmapala, 2009: 4). It is assumed by Desai and Dharmapala that governments strive to foster national welfare, which comprises of three aspects: the expected end-of-period wealth of the US investor, the risk borne by the investor to attain expected wealth and, the tax revenue collected by the government (ibid: 19).

Objectives of the government in economic models

In economic models, there are two extreme assumptions regarding what governments strive for (Fuest *et al*., 2005). On the one end of the spectrum, there is the assumption of the benevolent government, i.e. a government maximizing the welfare of its citizens, and on the other end, the government as a *leviathan*, i.e. a government seeking to maximize tax revenues with little interest in the well-being of its citizens. Models based on the assumption of a benevolent government reason national welfare as the welfare of a representative citizen in the said country. Models following the leviathan approach, stemming from the so-called Public Choice approach (see below), model national

[9] This principle was also developed by Desai and Hines (2003).

welfare as the sum of tax revenues and hence explicitly picture the risk that governments may become oversized (ibid).

How so often in life, the reality often lies between these two extremes. It is rather doubtful that a government is solely interested in improving its citizens' welfare. As voters have a certain influence on the government's actions via elections it is highly unlikely that a government can simply accumulate tax revenues without benefit for the citizen (Fuest *et al*., 2005). Consequently, many models include both aims into the government's objective function (for examples, see Fuest *et al*., 2005). Also the various neutralities explained above (CEN, CIN, CON, NON, NN, GNP) follow a similar approach that conceptualizes efficiency (and in this respect, welfare) as the sum of tax revenues and firm profits (Schön, 2009: 83).

4.4 Public Choice Theory

Public Choice Theory is an approach applying methods typically used in economics to the political sphere; particularly, it adopts the economists' view that individuals are selfish utility-maximizers to political actors (Tullock, 1987). Public Choice models hint to a further key issue in the context of international taxation, namely pointing out the interrelatedness of economics and politics. The Public Choice framework further highlights that a nation is not so homogenous as to have one common interest, but rather that nations comprise of different societal groups with particular (and often conflicting) interests (Olson, 1982).
In the U.S., as in other countries alike, tax policy is very much impacted by the interests of various factions:

> "… tax policy is a plaything of interest group politics, of ideological divisions related to progressivity and the size of the government, and of the games played by politicians to extract rents or improve the political optics of what they are doing" (Shaviro, 2007: 165).

In the Public Choice framework, bureaucrats and politicians are viewed as being concerned only about their own interests: bureaucrats aim at boosting the budgets they manage, increasing their incomes, or enhancing their personal status (Benvenisti, 1999: 199). Politicians typically do not seek to improve the welfare of their citizens but only seek to be (re)elected. Hence, they are likely to provide advantages to influential pressure groups that support the "correct" political party, for instance, by donating to their political campaigns (ibid: 172). In such a view of the world, there is not much room for politicians that maximize national welfare.

Being aware that nation states are not unitary actors alludes to the influence that various factions have on international tax policy (Olson, 1986). In the following, I will look at the different societal groups, their specific interests with regards to international taxation, and how they influence the policies of their respective governments.

Public Choice Theory has shown that with respect to domestic issues, relatively small and well-organized groups (commonly producers and employers) are typically more successful than larger groups are in influencing politics in their favor (Olson, 1986: 74). That this also applies to international tax policy is not surprising. Shaviro highlights that powerful domestic interest groups such as "the cadre of notoriously well financed and politically active leading U.S. MNEs [are] lobbying for policies that would benefit them in particular", and exert a great influence on international tax policy in the U.S. (Shaviro, forthcoming, Ch. III, p. 16).

The OECD's "harmful tax competition project"

The history of the OECD's "harmful tax competition project" is one prominent example of MNEs successfully influencing international tax policy (Rixen, 2011: 215). The project was initially intended to (i) induce low-tax jurisdiction to put an end to "harmful" tax policies and (ii) to persuade high-tax jurisdictions to eliminate preferential tax regimes (ibid). The fact that pervasive tax competition shifts the tax burden from mobile factors (such as international capital) to those less mobile (labor and consumption), is stated as one reason why "excessive" tax competition is seen as harmful (OECD, 1998: nb 66). From the initial OECD report from 1998 it becomes also evident that the interests of corporate capital are regarded as the driving force behind international tax competition (ibid: 16f).

Despite the intentions written down in this 1998 report and despite being allegedly concerned about excessive forms of tax competition threatening their domestic tax-bases, the governments of the G7 did not implement any severe rules in order to inhibit "harmful" tax competition (Benvenisti, 1999). According to Benvenisti, the reason is that governments do not want to harm their "own" international corporations. In the U.S., the lobbying activities of the pressure groups were particularly successful. In 2001, Paul O'Neill, then Secretary of the Treasury, announced that:

> "The United States does not support efforts to dictate to any country what its own tax rates or tax system should be, and will not participate in any initiative to harmonize world tax systems".

Furthermore, it is not only residence countries of MNEs, but also tax-havens that benefit from the status-quo of the international tax system. Both parties were opposed to this OECD project (Rixen, 2005: 25ff). Under this pressure, the project's goals have to some degree been amended. The OECD's 2001 progress report on the project documents a shift in the project's objectives (OECD, 2001). The project should henceforth merely focus on the criterion of transparency and the exchange of information between jurisdictions (OECD, 2001: nb 26f; also see 4.5).

Tax treaty policy

In addition, Benvenisti (1999) argues that small and well-organized interest groups are able to exert even greater influence on *international* than on *domestic* law (p. 174). This is especially true for negotiations of international treaties. The negotiations are rather secret; the options offered and discussed remain largely concealed to the public. Due to the relative confidentiality of international negotiations and the resulting high costs of information-gathering and assessment, political stakeholders with relatively good organizational capabilities have a comparative advantage in taking influence (ibid). The general public, in contrast, is often ignorant of the ramifications of international treaties (ibid: 180). Moreover, negotiations are usually made by government representatives. Parliaments can only approve or disapprove the treaty that they are presented, and thus have essentially only a "take it or leave it" option. As a result, international treaties are "less susceptible to serious domestic scrutiny and effective democratic deliberation" (ibid: 185f). This leads to well-organized pressure groups being able to secure significant gains and "voters [facing] a process of ever-growing marginalization" (ibid: 212).

These general observations apply to a varying degree also to tax treaties, depending on each individual country's policies.[10] The Austrian administration with regards to DTT policy, for instance, increasingly leaves the secretiveness out of its chambers (Lang, 2012). In 1998, the Austrian model tax treaty was published and, since then, publications of the experts from the Ministry of Finance have openly discussed the further developments of the national tax treaty policy (ibid: 123). The Austrian administration actively seeks out collaboration with interest groups and academics (ibid: 124f).

Yet, surprisingly, both the general principles and the practical details of tax treaty policy are commonly not discussed in the Austrian parliament. Except for special cases like the revision of the DTT with Switzerland in 2007, the parliamentary approval of international tax treaties rarely gives rise to public debate (ibid: 124). Lang maintains that since DTT policy is not a minor part of tax policy it would be appropriate to follow the example of other countries such as Germany, who regularly discuss the topic at the parliamentary level (124).

While the parliament and the general public are not much involved in international tax policy, Austrian interest groups are strongly integrated in the negotiation process of DTTs (ibid: 124). After each round of negotiations, as well as after the conclusion of the process, special interest

[10] A very thoroughly researched and detailed paper examining the Australian tax treaty practice, particularly giving background information on what the negotiating parties offered and discussed and providing explanations as to how the particular features of the Australian DTTs evolved over time, is the recent paper by C. Taylor (2011).

groups and academic experts are informed and invited to give their comments. The representative for Austrian companies, the Austrian Economic Chamber (Wirtschaftskammer Österreich), is informally consulted also during negotiations (ibid). Whether the opinions of experts and the pressure groups have a substantial influence on the Austrian position is however difficult to tell (ibid: 124).

Akin to Benvenisti (1999), Lang states that secretiveness with regards to preparing international treaties is outdated – especially when it comes to DTTs, which are not only part of foreign policy but also part of fiscal policy (Lang, 2012: 25). It seems paradoxical that in a political culture where public and controversial discussions concerning tax policy are the norm, DTTs are not debated publicly. From a democratic perspective, it is alarming that only pressure groups and specific expert institutions are involved in the negotiation process of DTTs (ibid: 21).

4.5 Game Theory framework

With the growing international connectedness of economies, the tax systems of nation states are also becoming increasingly interrelated. A country seeking to maximize its welfare by structuring its tax system in one way or another has also to take into consideration how other countries tax cross-border income. Game Theory provides a valuable framework for modeling these strategic interactions (see *e.g.* Janeba, 1995). A game that is commonly viewed as aptly representing the strategic dependencies and relations in international taxation is the so-called prisoner's dilemma (PD) (ibid). Snidal (1985) describes this game as

> "an archetypical example of the disjuncture between individual and group rationality which characterizes many problems of collective action: Pursuit of individual selfinterest by states (…) results in their being worse off than if both abstain from pursuit of their narrow self-interest and cooperate(…)"(p. 926).

Numerous authors apply this PD-framework for analyzing different aspects of international taxation (see *e.g.* Shaviro, 1997; Dagan, 2000; Rixen, 2005). It is, for instance, often argued that curbing tax competition is difficult, because the positions of each country can be modeled as a PD-game where defection hampers cooperation (*e.g.* Rixen, 2005). When all governments cooperate and convincingly commit to refraining from undercutting each other's tax rates, then collectively, the best outcome would result. Yet for each country individually, it is optimal to defect, i.e. reducing its tax rates in order to attract mobile capital. If all governments, however, pursue this strategy, the worst result for all occurs: tax rates of all countries would decrease and no additional tax bases from abroad would be secured (ibid: 7). This scenario reflects a symmetric PD. However, it is often asserted that both small and big countries have differing interests with regards to tax competition

(Dehejia and Genschel, 1999). As declining tax rates are connected with large welfare losses for big countries, they are more interested in international coordination in order to prevent a race to the bottom of tax rates. Small countries, contrarily, being able "to overcompensate the potential welfare loss of lower taxes with the influx of tax base from other countries" would rather welcome tax competition (Rixen, 2011: 202). Due to this conflict of interests, international tax competition is regarded by some as being more aptly modeled through an asymmetric PD-game.

Tsilly Dagan (2000) uses the Game Theory framework to analyze another issue of international taxation. By means of a PD-game, she determines whether a country, striving to maximize national welfare would be better off either eliminating double taxation of cross-border income unilaterally or signing a DTT for this purpose. In her model, national welfare comprises of tax revenues and the aspired level of outbound investment. Dagan concludes that if the cross-border investment flows between the two countries are symmetric, both countries will eliminate double taxation. Whether this is done unilaterally or by a DTT is irrelevant. The result changes, however, if the relations between the countries are asymmetric, i.e. that one country is a net capital importer and the other country is a net capital exporter. In this case, it is in the source country's national interest to eliminate double taxation unilaterally, as its tax revenues are higher under unilateral relief than under a relief by means of a DTT (see also 4.2). Unilateral double tax relief is a stable equilibrium, also when both countries are assumed to promote their own welfare.

Thomas Rixen (2008) also models the strategic interactions of two countries in relieving double taxation and preventing tax avoidance. He states that depending on the assumptions, this game may take either the form of a PD or an assurance game[11]. He assumes that both countries strive to maximize national welfare (which comprises of national tax revenues and investment outflows) and that no double tax relief would be granted in the initial situation. Furthermore, it is assumed that the source country always taxes the income arising on its territory. The residence country can then choose between exemption/credit, deduction, or no double tax relief. It is generally agreed in the literature that for the residence country unilaterally providing relief for double taxation is welfare-maximizing (Rixen, 2008: 34).

If one assumes that an economy's capital is (i) not fixed, (ii) that domestic investment and FDI are complements, and (iii) that capital flows in two directions, multiple Nash-equilibria[12] are possible (see *e.g.* Janeba, 1995). The credit and the exemption relief, as well as the deduction method, can represent a Nash-equilibrium (Rixen, 2008: 37). That is, based on the underlying assumptions, the choice between credit/exemption and deduction is represented not by a PD but rather by an assurance game, where more than one equilibrium is possible (ibid). So far, there is no

[11] The characteristic feature of these games is that "the players have to assure each other of their rationality" (Rixen, 2008: 37).

[12] That is, each person makes the best decision she can make - taking into account what the other person does.

consensus in the literature as to whether the choice for the residence country between deduction and exemption/credit is best represented by a PD or an assurance game. There are further examples where other games are used to analyze issues of international taxation. Dehejia and Genschel (1999), for instance, model tax competition as a "battle of the sexes" game. In their view, it is not so much defection that prevents international cooperation in the field of international taxation but rather distributional issues that make cooperation "controversial" (Dehejia and Genschel, 1999: 1044f). Which game is in the end the most suitable depends on the precise issue that is being analyzed and on the assumptions made by the respective authors of each paper (Rixen, 2008: 37).

There are some caveats to using the Game Theory model for the analysis of international taxation issues. Firstly, policy choices are typically more complex than simple binary choices as indicated in Game Theory models. However, as long as these choices may meaningfully be arrayed in one dimension, the strategic structure of the game remains the same (Snidal, 1985: 927f). Also increasing the number of the actors does not change the structure of the game; each additional actor simply adds one dimension (ibid: 929). The probably most important setback is that the Game Theory model

> "treat[s] states as goal-seeking actors with well-defined preferences implies an essentially realist (or neorealist) view of international politics" (ibid: 926).

One should have this drawback in mind when using the Game Theory approach to international policy issues (see also Shaviro, 2007: 165) Still, the Game Theory framework yields beneficial insights by underlining the importance of the strategic aspects of interactions among states, and their impact on interstate cooperation (ibid: 941). Rixen's approach below further addresses the unsatisfactory assumption Game Theory implicates (that governments are considered as unitary actors), and provides a solution to this dilemma.

International tax policy between domestic interest groups and international structures

Rixen (2011) sets up a framework to analyze the strategic structures of international double taxation and under-taxation combing Game Theory and Public Choice ideas. His framework rests on two assumptions: (i) Governments are assumed to maximize national welfare and need to gain the support of three domestic interest groups, namely labor, individual capital (i.e. wealthy citizens investing part of their wealth abroad), and corporate capital;[13] (ii) Rixen differentiates between small

[13] Rixen claims that the three domestic interest groups would support double taxation avoidance: Labor is not interested in international capital being taxed twice "as long as enough tax is paid at home"; both individual and corporate capital would

and big countries, arguing that they might pursue different policies in order to maximize national welfare.

In Rixen's game, governments have both a unilateral and a collective interest in alleviating international double taxation.[14] Due to this structure, the alleviation of double taxation can be modeled as a "coordination game". Conversely, depending on a country's relative international investment position, small and big countries will have differing preferences with regards to the way double taxation is avoided. Net capital importers, typically small countries, have an interest in promoting source taxation, while net capital exporters, often big countries, rather prefer residence taxation. Rixen, consequently, perceives the structure of the "double tax avoidance game" as a "coordination game with a distributive conflict" (Rixen, 2011: 198).

When international double taxation is to be prevented, cross-border income should be subject to single taxation. Yet, countries can benefit unilaterally from setting lower tax rates than others in order to attract international capital flows. Thus, tax competition constitutes the second stage in the tax game established by Rixen. He models the tax competition as an asymmetric PD.

The positions of the three societal groups will depend on whether the issue is to prevent real tax competition, i.e. the shifting of economic activity to other jurisdictions, or virtual tax competition, which is solely about shifting paper-profits. Generally, there will be conflicting interests, and in the case of virtual tax competition, domestic corporate capital in the bigger country will attempt to prevent their government from effectively mitigating the problem of under-taxation. Due to the effective lobbying of corporate capital in large countries, under-taxation is not curtailed decidedly. In addition to this, and because of the differing interests of small and big countries, the countries will often fail to coordinate and successfully curb international tax avoidance and evasion (ibid: 220).

In general, evidence supports the propositions made by this approach. Countries often struggle to agree on effective means to prevent international tax avoidance and evasion. A case in point is the OECD project on harmful tax competition, which has encountered many difficulties not only from large countries and also from small tax-havens, that actually benefit from the offering of very low tax rates (Rixen, 2011: 217; also see 4.4).

5. Conclusion

This article observed that the current international tax system and the theoretically "optimal" tax system diverge greatly. One reason for this discrepancy might be that politicians strive

undoubtedly not oppose international double tax relief and they would not care as to where to pay the remaining tax (p. 201).

[14] According to Rixen (2011), the fact that all governments unilaterally provide relief of double taxation provides evidence for this proposition.

for other more dubious objectives rather than making tax rules that comply with the theoretical concepts of optimal taxation.

In this article, the approaches used in the economic and legal literature to explain the motivations of the persons "making" international tax policy have been contrasted with some "real world" evidence. In this endeavor, this article has investigated how far (i) the benefit principle and the ability-to-pay principle, (ii) global efficiency norms, and (iii) national welfare may be the main objectives of consideration for politicians in charge of making international tax policy. Subsequently, the influence different societal groups may exert on the law making process have been examined in the light of the Public Choice Theory. Also the Game Theory framework has been presented, which can prove valuable in modeling strategic interactions of different countries in the international tax game.

Not surprisingly, the article has illustrated that the making of international tax policy is affected by many different factors: both domestic pressure groups and the structure of the international tax system influence this process, along with politicians and bureaucrats that may strive to advance their personal goals rather than the welfare of their citizens. Considering the complexity of the conditions under which international tax policy is often made, it is not astonishing that international tax law deviates from the principles characterizing ideal taxation.

6. References

Adamczyk, L. (2010): The Parent-Subsidiary Directive, in: Lang *et al*. (eds.), Introduction to European Tax Law on Direct Taxation, Wien: Linde.

Avi-Yonah, R. S. (2007): International Tax as International Law. An Analysis of the International Tax Regime. Cambridge Tax Law Series. Cambridge: Cambridge University Press.

Benvenisti, E. (1999): Exit and Voice in the Age of Globalization, *Michigan Law Review*: Vol. 98: 167-213.

Blanchard, O. (2010): Macroeconomics. 5th international edition. Prentice Hall International. Pearson.

Blumenthal, M. and J. Slemrod (1996): The Income Tax Compliance Cost of Big Business, *Public Finance Quarterly*, Oct 1996: 411-438.

Bovenberg, A. (1994): Perspectives on Tax Policy in Small and Open Economies, in Andersen *et al*. (eds.), Tax Policy in Small Open Economies, Oxford (UK): Blackwell Publishers.

Brauner, Y. (2003): An International Tax Regime in Crystallization, *Tax Law Review*, 2003 (56): 259-328.

Case, K. (1986): Economics and Tax Policy. Boston: Oelschlager, Gunn and Hain.

Dagan, T. (2000): The Tax Treaties Myth, *N.Y.U. Journal of International Law and Politics* 32: 939-996.

Davies, R. (2003): The OECD Model Tax Treaty: Tax Competition and Two-Way Capital Flows, *International Economic Review*, 44: 725-753.

De Mooij, R.A. and S. Ederveen (2003): Taxation and Foreign Direct Investment: A Synthesis of Empirical Research, *International Tax and Public Finance*, 10: 673-693.

De Mooij, R.A. and S. Ederveen (2006): What a Difference Does it Make? Understanding the Empirical Literature in Taxation and International Capital Flows, Economic Paper 261, European Commission.

Dehejia, V. and P. Genschel (1999): Tax Competition in the European Union. *Politics and Society* 27 (3): 1037-1077.

Desai, M. and D. Dharmapala (2009): Taxes, Institutions and Foreign Diversification Opportunities. *Journal of Public Economics* 93, nos. 5-6 (June 2009): 703-714.

Desai, M. and J. R. Hines (2003): Economic Foundations of International Tax Rules, Paper prepared for the American Tax Policy Institute, Washington D.C. ; retrieved on 14/12/2011, from http://www.americantaxpolicyinstitute.org/pdf/econimic_foundation_internal.pdf

Devereux, M.P. (2007): The Impact of Taxation of the Location of Capital, Firms, and Profit: A Survey of Empirical Evidence. Working Paper 07/02. Oxford University Centre for Business Taxation. Oxford.

Devereux, M.P. and R. Griffith (1998): Taxes and the Location of Production: evidence from a panel of US multinationals, *Journal of Public Economics*, 68: 335-367.

Dunning, J. (1977): Trade, Location of Economic Activity, and the MNE: A Search for an Eclectic Approach. In: Ohlin *et al*. (eds.): The International Allocation of Economic Activity. London: Macmillan: 395-418.

Fuest, C. *et al*. (2005): Capital Mobility and Tax Competition; *Foundations and Trends in Microeconomics*, Vol 1 (1).

Ganghof, S. (2006): The Politics of Income Taxation; A Comparative Analysis of Advanced Industrial Countries; Colchester: ECPR Press.

Graetz, M. (2001): Taxing International Income – Inadequate Principles, Outdated Concepts, and Unsatisfactory Policy; Faculty Scholarship Series, Paper 1618.

Graetz, M. (2003): Foundations of International Income Taxation; New York: Foundation Press.

Graetz, M. (2004): International Income Taxation; *Taxes*: 82, March 2004: 209-242; speech on Nov 14, 2003; edited and annotated.

Graetz, M. and O'Hear, M. (1997): The "Original Intent" of U.S. International Taxation*; Duke Law Journal* (51).

Hanlon, M., E. Maydew, and J. Thornock (2012): Taking the Long Way Home: Offshore Investments in U.S. Equity and Debt Markets and U.S. Tax Evasion, working paper, Massachusetts Institute of Technology, University of North Carolina, and University of Washington.

Holmes, K. (2007): International Tax Policy and Double Tax Treaties. An Introduction to Principles and Application. Amsterdam: IBFD Publications.

Hufbauer, G. and J. Kim: U.S. Taxation of Multinational Corporations: What Makes Sense, What doesn't. Policy Brief. Peterson Institute for International Economics. March 2009. Number PB 09-7. Retrieved on 05/01/2012, from http://www.iie.com/publications/pb/pb097.pdf.

Janeba, E. (1995): Corporate Income Tax Competition, Double Taxation Treaties, and Foreign Direct Investment, *Journal of Public Economics* 56 (2): 311-325.

Lang, M. (2012): Überlegungen zur österreichischen DBA-Politik, *Steuer und Wirtschaft International*, März 2012 (3). Linde Verlag: 108-127.

Li, J. (2003): International Taxation in the Age of Electronic Commerce: A Comparative Study, Toronto: Canadian Tax Foundation.

Kirchhof, P. interview with V. Zastrow, Wir verteilen von Arm zu Reich, 22.08. 2011. in *Frankfurter Allgemeine Zeitung*. Retrieved on 14/12/2011, from http://www.faz.net/aktuell/politik/inland/paul-kirchhof-im-f-a-s-gespraech-wir-verteilenvon-arm-zu-reich-11108799.html

Mintz, J. and A. Weichenrieder (2010): The indirect side of direct investment. Multinational company finance and taxation, Cambridge (MA): MIT Press.

Morisset, J. and N. Pirnia (1999): How Tax Policy and Incentives Affect Foreign Direct Investment. A Review. World Bank Policy Research Working Paper No. 2509.

Musgrave, P. (1969): United States Taxation of Foreign Investment Income. Issues and Arguments. Law School of Harvard University.

Nicodème, G. (2008): Corporate Income Tax and Economic Distortions. CESifo Working Paper No. 2477, CESifo, retrieved on 16/02/2012, from http://www.ifo.de/portal/pls/portal/docs/1/1186736.PDF.

OECD (1998): Harmful Tax Competition. An Emerging Global Issue. Paris: OECD Publications.

OECD (2001): The OECD's Project on Harmful Tax Practices: The 2001 Progress Report. Paris: OECD Publications.

OECD (2010),"Foreign direct investment: flows by partner country", OECD International Direct Investment Statistics (database). doi: 10.1787/data-00335-en. (Accessed on 14/02/2012)

O'Neill, P. H. (2001): Confronting OECD's Notions on Taxation, Washington Times, 10 May.

Potter, C. (1999): Mark-To-Market Taxation As The Way To Save The Income Tax – A Former Administrator's View, *Valparaiso University Law Review*, 33 (3): 879-905.

Puzzanghera, J. (2011): Congress looks for Corporate-Tax Fairness. *The Seattle Times.* April 20 2011. Retrieved on 05/01/2012, from http://seattletimes.nwsource.com/html/politics/2014818039_biztaxes20.html

Richman, P. (1963): Taxation of Foreign Investment Income: An Economic Analysis. Baltimore: John Hopkins Press.

Rixen, T. (2005): Internationale Kooperation im asymmetrischen Gefangenendilemma. Das OECD Projekt gegen schädlichen Steuerwettbewerb. Discussion Paper. Retrieved on 16/02/2012, from http://mpra.ub.uni-muenchen.de/329/.

Rixen, T. (2007): Taxation and Cooperation: International Action Against Harmful Tax Competition; Globalization. State of the Art and Perspectives; London: Routledge: 61-80.

Rixen, T. (2008): The Political Economy of International Tax Governance; Basingstoke: Palgrave/Macmillan.

Rixen, T. (2010): Bilateralism or Multilateralism? The Political Economy of Avoiding International Double Taxation, *European Journal of International Relations*, Vol. 16 (4).

Rixen, T. (2011): From double tax avoidance to tax competition: Explaining the institutional trajectory of international tax governance. *Review of International Political Economy*, 18(2): 197-227.

Shaviro, D. (2007): Why worldwide welfare as a normative standard in U.S. tax policy?; *Tax Law Review*, Vol. 60 (3): 155-178.

Shaviro, D. (2011): The Case against foreign tax credits; *Journal of Legal Analysis*, Vol 3(1).

Shaviro, D. (forthcoming): Fixing U.S. International Taxation.

Snidal, D. (1985): Coordination versus prisoners' dilemma: Implications for international cooperation and regimes; *American Political Science Review*; Vol. 79: 923-942.

Swank, D. (2002): Global Capital, Political Institutions, and Policy Change in Developed Welfare States; Cambridge: Cambridge University Press.

Swank, D. and S. Steinmo (2002): The New Political Economy of Taxation in Advanced Capitalist Democracies; *American Journal of Political Science*; Vol. 46 Issue July: 642-655.

Taylor, C.J. (2011): Some distinctive features of Australian tax treaty practice: An examination of their origins and interpretation, *eJournal of Tax Research*, Vol 9, No 3 (Special Edition: Double Tax Agreements in the Asia Pacific): 294-338.

Terra, B. and P. Wattel (2001): European Tax Law, 3rd edition. Alphen aan den Rijn: Kluwer Law International.Tullock, G. (1987): Public Choice. The New Palgrave: A Dictionary of Economics. Eatwell, J. *et al*. (eds). London: MacMillan Press, Ltd.