

Pierre Bourdieu (which makes sense because the article is a chapter in a book that theorizes about the state from the vantage point of several disciplines). He invokes Bourdieu's metaphor of the state: a metaphor that distinguishes the fiscal ministerial cabinets from the spending ministries. In contrast, Mehrotra posits the state as a Hindu deity with multiple arms. His point is that our concept of the state has evolved dramatically from the days when it was theorized as a monolithic entity and described in relatively straightforward ways.

Mehrotra draws on his extensive work in tax history to demonstrate how tax systems in liberal democracies require constant negotiation and renegotiation because they are fundamental to our sense of how democracy should be manifest. Readers who have no time to read Mehrotra's longer work can gain a sense of his argument in this article.<sup>17</sup>

The interaction between taxation systems and theories of the state and the influence of tax structures on concepts of citizenship are the focus of the first two sections of the article. Readers who are not particularly interested in these matters may nevertheless find the section on state delegation to the private sector of the obligation to withhold fascinating. Mehrotra details the introduction of "stoppage at the source" withholding in the United States in 1913 (when withholding was imposed on persons or organizations making payments of more than \$3,000 in salary, interest, or other fixed income, such as rent and dividends). While widely accepted now, the idea that the state could impose (with democratic acceptance) on private organizations or citizens the obligation to withhold and remit taxes on behalf of other private citizens seems far from obvious in the historical account.

K.B.

**Eduardo Baistrocchi, ed., *A Global Analysis of Tax Treaty Disputes***

(Cambridge, UK: Cambridge University Press, 2017), 2 vols., 1588 pages

Baistrocchi's collection is a must-have for readers interested in tax treaties. It might aptly be referred to as "the definitive encyclopedia on tax treaty case law." Work by 42 authors spans 27 countries and provides an analysis of over 580 tax treaty cases.

The two-volume collection follows the familiar International Fiscal Association format: an introduction; chapters devoted to individual countries; and conclusory chapters, each of which brings a comparative approach to an aspect of tax treaty disputes.

The author of each chapter about a particular country includes his or her responses to a list of eight common questions, including the structure of the law for resolving disputes about the interpretation of tax treaties, the mechanisms for treaty implementation, the differential treatment of active and passive income, and the treatment of intangibles.

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17 See, for example, Ajay Mehrotra, *Making the Modern American Fiscal State: Law, Politics, and the Rise of Progressive Taxation, 1877-1929* (New York: Cambridge University Press, 2013).

The chapters about individual countries are lengthy and detailed. In his chapter about Canada, Arthur Cockfield offers an analysis of each of the questions posed to the contributors of these chapters. Not surprisingly, his review of the Canadian context focuses on our relationship with the United States. Canada has been a net capital exporter of foreign direct investment since 1996; in addition to the United States, the United Kingdom and Australia are Canada's major trade partners. Not surprising to a tax audience, Barbados, the Cayman Islands, Luxembourg, and Bermuda also find their way into our top ten foreign direct investment partners.

Cockfield's review of the major tax treaty disputes highlights the usual suspects, such as *Crown Forest*, grouping the cases around the core themes of the disputes. He analyzes tax treaty interpretation case law, including a discussion of how the courts have approached the meaning of terms in tax treaties and the use of extrinsic materials. He assesses the available case law on the allocation of jurisdiction between passive and active income, the elimination of double taxation, treaty shopping, non-discrimination, and the general anti-avoidance rule. Finally, he offers an overview of dispute resolution mechanisms, including mutual agreement procedures and arbitration. Cockfield provides outstanding coverage and offers a good starting place for colleagues who want a refresher in Canadian tax treaty law or who want a sophisticated sense of how treaty disputes have arisen and been resolved in Canada.

The four conclusory chapters reveal the benefits of comparative tax law. Perhaps the chapter by Eduardo Baistrocchi, "Patterns of Tax Treaty Disputes: A Global Taxonomy," is the most engaging. Baistrocchi offers a series of taxonomies in an effort to organize and analyze the tax treaty cases around the world. The reader is able to see not only global trends in tax treaty disputes but also concrete illustrations of the various types of disputes. The work reflected in this chapter is extraordinary. Baistrocchi has managed to distill pages and pages of reports from individual countries into a cohesive and informative whole.

The book includes a table of cases and a well-developed index; perhaps most helpfully, it has a table that lists cases by the type of treaty dispute involved. For example, a reader can look up cases about the application of treaty anti-abuse provisions under subcategories such as residence tests, beneficial ownership, and implicit anti-abuse. Each of these subcategories is further subdivided—for example, "beneficial owner" includes a category for dividends (in which *Prévost Car* appears), interest, royalties (in which *Velcro* appears), and capital gains.

This review does not do justice to the rich resource that this double volume provides for tax practitioners, policy makers, and scholars with an interest in tax treaty disputes. It is a stand-out contribution in the area.

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