

Abstract

Double taxation treaties

The diploma thesis focuses on the double taxation treaties with an objective to provide a qualitative evaluation of this legal institute, introduce positive and negative aspects of the institute. Subsequent purpose is to falsify the two hypotheses stated in the introduction. The first section discusses the history of taxation, the history of double taxation treaties and clarify the causations for their creation. Furthermore, the thesis presents individually relevant legal terms that are crucial for the comprehension and proper application of international double taxation treaties. Besides to legal terms, the thesis with doctrinal terms and economic terms in order to clarify the difference in the term of double taxation. The next section deals with the international double taxation treaties themselves, with their origin and the place in Czech legislation. Afterwards a description of the methods of avoiding double taxation is accomplish jointly with the comparison of the differences in the variant types and subtypes of methods. At the conclusion of section 4, application examples of individual methods of avoiding double taxation are analyzed. The final section of the thesis discusses present issues related to double taxation treaties. Description process of present legal questions and legal resolution attached to double taxation treaties gave an assistance to better reevaluate the legal institute.

In compliance with the principal of legal certainty, double taxation treaties provide a predictable legal environment and promote international commerce. However simultaneously, the instate enables socially undesirable phenomena such as Treaty Shopping or Transfer Pricing. The legal instrument allows the tax revenue on income and business transactions. These transactions would have been hardly realized without existence of this institute. This by itself is a positive occurrence from the fiscal point of view. However, on the contrary, treaties allow legal persons, especially multinational companies to avoid tax liability for instance via Transfer Pricing. International community has decided to act in order to resolve this undesirable legal state through measures that have been negotiated in multilateral agreements and subsequently implemented. Nevertheless adopted measures yield other difficulties and may interfere with the fundamental rights of the individual.

Key words: double tax treaties, double tax agreements, double taxation, OECD Model Tax Convention, elimination methods of double taxation