

BIBLIOGRAPHY

- Altshuler, Rosanne and Timothy Goodspeed (2002), "Follow the leader? Evidence on European and U.S. tax competition," mimeo, Hunter College.
- Amerkhail, Valerie (2000), "Arm's Length or Formulary Apportionment? Sometimes the Best Choice is Both," 9 *Tax Management Transfer Pricing. No. 13 Special Report*, Washington, D.C.: Bureau of National Affairs, pp. S25-S35.
- Anand, Bharat N. and Richard Sansing (2000), "The weighting game: formula apportionment as an instrument of public policy," 53 *National Tax Journal* 2, pp. 183-99.
- Arnold, Brian J. (2003), "Threshold Requirements for Taxing Business Profits Under Tax Treaties," in Brian J. Arnold, Jacques Sasseville, and Eric M. Zolt, eds., *The Taxation of Business Profits Under Tax Treaties*, Ontario: Canadian Tax Foundation, pp. 55-108.
- Avi-Yonah, Reuven (1995), "The Rise and Fall of Arm's Length: A Study in the Evolution of U.S. International Taxation," 15 *Virginia Tax Review* 1, pp. 89-159.
- Bartelsman, Eric and Roel Beestma (2003), "Why Pay More? Corporate Tax Avoidance Through Transfer Pricing in OECD Countries," 87 *Journal of Public Economics* No. 9-10, pp. 2225-2252.
- Bird, Richard and Donald S. Breen (1986), "The Interjurisdictional Allocation of Income and the Unitary Taxation Debate," 34 *Canadian Tax Journal* 6, pp. 1377-1416.
- Brown, Robert D. (1984), "Canada-U.S. Tax Issues: The Tax Treaty, Unitary Taxation, and the Future," *International Tax Planning Feature* (May-June 1984), 32 *Canadian Tax Journal*, pp. 547-71.
- Carroll, Mitchell B. (1933), *Taxation of Foreign and National Enterprises Volume IV – Methods of Allocating Taxable Income (Carroll Report)*, League of Nations Document No. C.425.M.217(b). IIA.
- Clausing, Kimberly A. (2003), "Tax-motivated Transfer Pricing and U.S. Intrafirm Trade Prices," 87 *Journal of Public Economics* No. 9-10, pp. 2207-23.
- Coffill, Eric J. (1993), "A Kinder, Gentler 'Water's Edge' Election: California Wards Off Threats of U.K. Retaliation as Part of Comprehensive Business Incentive Tax Package," 61 *Tax Notes* No. 4, pp. 477-87.
- Commission of the European Communities (2005a), "Court Cases in the Field of, or of Particular Interest for, Direct Taxation," Taxation and Customs Union.
- _____ (2005b), "Losses in Cross-Border Situations," April.

- _____ (2004a), "A Common Consolidated EU Corporate Tax Base," Non-paper presented to informal Ecofin Council, 10 and 11 September 2004.
- _____ (2004b), *European Tax Survey*, Working Paper No 3/2004, Directorate-General Taxation and Customs Union, Luxembourg: Official Publications of the European Communities.
- _____ (2003a), "An Internal Market without company tax obstacles. Achievements, ongoing initiatives and remaining challenges," COM(2003) 726 (24 November 2003), Brussels.
- _____ (2003b), "Internal Market Scoreboard No. 12," 5 May 2003, Brussels.
- _____ (2002), *Company Taxation in the Internal Market*, Commission staff working paper, Office of Official Publications of the European Communities: Luxembourg. (Originally published as SEC (2001) 1681, 23 October 2001).
- _____ (2001), "Towards an Internal Market without tax obstacles. A strategy for providing companies with a consolidated corporate tax base for the EU-wide activities," Communication from the Commission to the Council, the European Parliament and the Economic and Social Committee, COM(2001) 582 final, Brussels, 23 October 2001.
- _____ (2000), *European Economy Mergers and Acquisitions*. Supplement A, 5/6, Luxembourg: Official Publications of the European Communities.
- _____ (1992a), *Report of the Committee of Independent Experts on Company Taxation* (the Ruding Report), Luxembourg: Office of Official Publications of the European Communities.
- _____ (1992b), "Subsequent to the conclusions of the Ruding Committee indicating guidelines on company taxation linked to the further development of the internal market," Communication to the Council and to Parliament, SEC (92) 118, 26 June 1992.
- _____ (1990), *Guidelines on Company Taxation*, Commission Communication to Parliament and the Council (20 April), COM(90) 601 final.
- Copenhagen Economics (2004), *Economic effects of tax cooperation in an enlarged European Union*, Final Report, Copenhagen.
- Culbertson, Robert E. (1995), "A Rose by any other name: Smelling the flowers at the OECD's (Last) resort," 11 *Tax Notes Int'l* 370 (Aug. 7, 1995).
- Dagostino, Emily (2004), "Is New Vermont Law a Sign of a Combined Reporting Comeback?" 34 *State Tax Notes* 7 (4 October 2004).
- Dennehy, Edward K. and Stephen G. and Ehrlich (2004), "PICKing Away at Passive Investment Companies: States Enact Legislation to Curtail Revenue Losses," 33 *State Tax Notes* 777 (Sept. 13, 2004).
- Devgun, Derek (1996), "International Fiscal Wars for the Twenty-First Century: An Assessment of Tax-Based Trade Retaliation," 27 *Law and Policy in International Business* 2, pp. 353-421.
- Durst, Michael C. and Robert E. Culbertson (2003), "Clearing Away and Sand: Retrospective Methods and Prospective Documentation in Transfer Pricing Today," 57 *Tax Law Review* No. 1, pp. 37-136.
- Eden, Lorraine, M. Tina Dacin and William P. Wan (2001), "Standards across borders: Cross-border diffusion of the arm's length standard in North America," *Accounting, Organizations and Society* 26, pp. 1-23.
- Edmiston, Kelly (2002), "Strategic Apportionment of the State Corporate Income Tax," 55 *Nat'l Tax Journal* 2, pp. 239-62.
- _____ (2001), "A Single-Factor Sales Apportionment Formula in the State of Georgia," Georgia State University, mimeo.
- Ernst & Young (1997, 1999, 2001, 2003), *Global Transfer Pricing Survey*.
- Eurostat (2004), *Structures of the taxation systems in the European Union. Data 1995-2002*, Luxembourg: Office for Official Publications of the European Communities.

- _____ (2003), *European Business. Facts and Figures. Data 1991-2001*. Luxembourg: Office for Official Publications of the European Communities.
- _____ (2001), *European Union Foreign Direct Investment Yearbook 2000*, Luxembourg: Office for Official Publications of the European Communities.
- Federation of Tax Administrators (2005), "State Apportionment of Corporate Income," mimeo. See www.taxadmin.org.
- Ferguson, Fred E. (1986), "Worldwide Unitary Taxation: The End Appears Near," 4 *Journal of State Taxation* 4, pp. 241-59.
- Fernandez, Albertina (1996), "Dorgan Blasts Arm's Length Transfer Pricing Method," 13 *Tax Notes Int'l* 26, (23 December 1996), pp. 2081-83.
- Finkenzeller, Mark and Christoph Spengel (2004), "Measuring the Effective Levels of Company Taxation in the New Member States: A Quantitative Analysis," European Commission Taxation Working Paper No. 7, Luxembourg: Office for Official Publications of the European Communities.
- Fox, William F. and LeAnn Luna (2002), "State Corporate Tax Revenue Trends: Causes and Possible Solutions," 55 *National Tax Journal* 3 (September 2002), pp. 491-508.
- Franchise Tax Board of California (2002a), *2002 Guidelines for Corporations Filing a Combined Report* State of California.
- _____ (2002b), *Form 100W, Water's Edge Booklet*, State of California.
- Gérard, Marcel (2005), "Multijurisdictional firms and governments' strategies under alternative tax designs," Catholic University of Mons, Belgium, mimeo.
- _____ and Joann M. Weiner (2003), "Cross-Border Loss Offset and Formulary Apportionment: How do they Affect Multijurisdictional Firm Investment Spending and Interjurisdictional Tax Competition?" CESifo Working Paper No. 1004, Munich.
- Gerstenberg, Charles W. (1931), "Allocation of Business Income," *Proceedings of the 24th Annual Conference of the National Tax Association*.
- Goldsworth, John (1989), "Tax Harmonization in the EEC and 1992," 1 *Tax Notes International* 587.
- Goolsbee, Austan and Edward Maydew (2000), "Coveting they neighbor's manufacturing: the dilemma of state income apportionment," 75 *Journal of Public Economics* 1, pp. 125-43.
- Gordon, Roger and John D. Wilson (1986), "An examination of multijurisdictional corporate income taxation under formula apportionment," 54 *Econometrica* 6, pp. 1357-73.
- Gorter, Joeri and Ruud A. de Mooij (2001), "Capital income taxation in Europe: Trends and tradeoffs," Central Planning Bureau, Netherlands Bureau for Economic Policy Analysis, The Hague.
- Graetz, Michael J. and Michael M. O'Hear (1997), "The 'Original Intent' of U.S. International Taxation," 46 *Duke Law Journal*, pp. 1021-1109.
- Gresik, Thomas A. (2001), "The Taxing Task of Taxing Transnationals," 34 *Journal of Economic Literature* 3 (September 2001), pp. 800-38.
- Grubert, Harry (2003), "Intangible Income, Intercompany Transactions, Income Shifting, and the Choice of Location," 56 *National Tax Journal* No. 1, Part 2, pp. 221-42.
- _____ (1997), "Another look at the low taxable income of foreign-controlled companies," OTA Paper 74, U.S. Department of the Treasury, Washington, D.C.
- _____, Timothy Goodspeed, and Deborah Swenson (1993), "Explaining the Low Taxable Income of Foreign-Controlled Companies in the United States," in Alberto Giovannini, R. Glenn Hubbard and Joel Slemrod, eds., *studies in International Taxation* (1993), Chicago and London: University of Chicago Press.
- Guariglia, Michael A., David J. Shipley, and Open Weaver Banks (2005), "Exceptions to Interest Addback Requirements for Related-Member Interest and Intangible Expenses," 37 *State Tax Notes* 355 (1 Aug. 2005).

- Gupta, Sanjay and Mary Ann Hofmann (2003), "The Effect of State Income Tax Apportionment and Tax Incentives on New Capital Expenditures," *Journal of American Taxation Association* 25 (Supplement), pp. 1-25.
- Healy, John C. (2001), *Multistate Corporate Tax Guide. Vol. 1. Corporate Income Tax*, New York: Panel Publishers.
- Hellerstein, Jerome R. (1995), "Geoffrey and the Physical Presence Nexus Requirement of Quill," 8 *State Tax notes* 671 (13 February 1995).
- _____ (1968), "Recent developments in state tax apportionment and the circumscription of unitary business," XXI *National Tax Journal* No. 4, pp. 487-503
- _____ and Walter Hellerstein (1998, cum. Supp. 2005), *State Taxation*, 3rd ed., Boston: Warren, Gorham, and Lamont.
- _____ and _____ (2005), *State and Local Taxation. Cases and Materials*. 8th ed., West Publishing Co.
- Hellerstein, Walter (2005), "The case for formulary apportionment," 12 *International transfer pricing journal* No. 3, pp. 103-111
- _____ (2001), "The Business-Nonbusiness Income Distinction and the Case for Its Abolition," 21 *State Tax Notes* 725 (Sept. 3, 2001).
- _____ and Charles E. McLure, Jr. (2004), "The European Commission's Report on Company Income Taxation: What the EU Can Learn from the Experience of the US States," 11 *International Tax and Public Finance* 2, pp. 199-220.
- Keesling, Frank M. and John S. Warren (1960), "The Unitary Concept in the Allocation of Income," 12 *The Hastings Law Journal* (August 1960), pp. 42-64.
- Klassen, Kenneth J. and Douglas A. Shackelford (1998), "State and provincial corporate tax planning: income shifting and sales apportionment factor management," 25 *Journal of Accounting and Economics* 3, pp. 385-406.
- Kline, John M. (1983), "The U.S.-U.K. Tax Treaty," in *State Government Influences in U.S. International Economic Policy*, Lexington Books, pp. 127-55.
- Kolmar, M. and Andreas Wagener (2004), "The Role of the Tax Base in Tax Competition with Formula Apportionment," University of Vienna, mimeo.
- Kroppen, Heinz-Klaus (2004), "Is Europe One Market? A Transfer Pricing Economic Analysis of Pan-European Comparables Sets," Deloitte White Paper background document, EU Joint Transfer Pricing Forum, Brussels, 24 February 2004.
- Langbein, Stanley (1986), "The Unitary Method and the Myth of Arm's Length," 30 *Tax Notes* 7 (Feb. 17, 1986), pp. 625-54.
- Manzon, Gil B., Jr., and George A. Plesko (2002), "The Relation Between Financial and Tax Reporting Measures of Income," 55 *Tax Law Review* 175, pp. 175-214.
- Martin, Philip (2004), "The Day After Tomorrow: The U.K. System After Marks & Spencer," 13 *Tax Management Transfer Pricing Report* 3 (9 June 2004), pp. 117-121.
- McDaniel, Paul R. (1994), "Formulary Taxation in the North American Free Trade Zone," 49 *Tax Law Review* 4, pp. 691-744.
- McLure, Charles E., Jr. (2002), "Replacing Separate Entity Accounting and the Arm's Length Principle with Formulary Apportionment," 56 *Bulletin for International Fiscal Documentation*, 12 (December), pp. 586-99.
- _____ (1981), "The Elusive Incidence of the Corporate Income Tax: The State Case," 9 *Public Finance Quarterly*, pp. 395-413.
- _____ (1980), "The State Corporate Income Tax: Lambs in Wolves' Clothing," in Henry S. Aaron and Michael J. Boskin (Eds.) *The Economics of Taxation*, Washington, D.C.: The Brookings Institution, pp. 89-124.
- _____ and Joann M. Weiner (2000), "Deciding whether the European Union should adopt Formula Apportionment of Company Income," in Sijbren Cnossen (ed.) *Taxing Capital Income in the European Union. Issues and Options for Reform*, Oxford: Oxford University Press, pp. 243-292.

- Meyer, Georganna and Ann Oshiro (1996), "Results of Arizona's Change to a Double-Weighted Sales Factor," 11 *State Tax Notes* 1699 (Dec. 9, 1996), pp. 1699-1703.
- Mieszkowski, Peter and George R. Zodrow (1985), "The Incidence of a Partial State Corporate Income Tax," 38 *National Tax Journal* 4, pp. 489-496.
- _____ and John Morgan (1984), "The National Effects of Differential State Corporate Income Taxes on Multistate Corporations," in Charles E. McLure, Jr., (ed.), *The State Corporation Income Tax: Issues in Worldwide Unitary Taxation*, Stanford, CA: Hoover Institution Press, pp. 253-263.
- Miller, Benjamin F. (1995), "States' Approaches to Combination of Dissimilar Businesses," *State Tax Notes* (June 19, 1995), pp. 2483-2488
- _____ (1984), "Worldwide Unitary Combination: The California Practice," in Charles E. McLure, Jr., (ed.), *The State Corporation Income Tax: Issues in Worldwide Unitary Taxation*, Stanford, CA: Hoover Institution Press, pp. 132-166.
- Mills, Lillian F., Merle M. Erickson, and Edward L. Maydew (1998), "Investments in Tax Planning," 20 *Journal of the American Taxation Association* 1 (Spring 1998), pp. 1-20.
- Minnesota Department of Revenue (1993), "Who Pays Minnesota's Household and Business Taxes?" 5 *State Tax Notes* 1483 (Dec. 20, 1993).
- Mintz, Jack (2004), "Corporate Tax Harmonization in Europe: It's All About Compliance," 11 *Journal of International Tax and Public Finance* 2 (March), pp. 221-34.
- _____ (2002), "European company tax reform: prospects for the future," Vol. 3 *CEsifo Forum*, No. 1, (Spring 2002), pp. 3-9.
- _____ (2000), "Globalization of the Corporate Income Tax: The Role of Allocation," 56 *Finanzarchiv* 3-4, pp. 389-423.
- _____ and Michael Smart (2004), "Income shifting, investment, and tax competition: Theory and evidence from provincial taxation in Canada," 88 *Journal of Public Economics* 6, pp. 1149-68
- _____ and Joann M. Weiner (2003), "Exploring Formula Allocation for the European Union," 10 *International Tax and Public Finance* No. 6 (November 2003), pp. 695-711.
- Multistate Tax Commission (2003), *Model Regulations, Statutes and Guidelines. Uniformity Recommendations to the States*, Washington, D.C.: Multistate Tax Commission. See <http://www.mtc.gov/uniform> for the latest updates.
- Munnell, Alicia H. (1992), "Taxation of Capital Income in a Global Economy: An Overview," *New England Economic Review* (September/October 1992), pp. 33-52.
- Musgrave, Peggy B. (2000), "Interjurisdictional Equity in Company Taxation: Principles and Applications to the European Union," in Sijbren Cnossen (ed.) *Taxing Capital Income in the European Union. Issues and Options for Reform*, Oxford: Oxford University Press, pp. 46-77.
- _____ (1984), "Principles for Dividing the State Corporate Tax Base," in *The State Corporation Income Tax: Issues in Worldwide Unitary Taxation*. Charles E. McLure, Jr., (ed.), Stanford: Hoover Institution Press, pp. 228-246.
- _____ (1972), "International Tax Base Division and the Multinational Corporation," 27 *Public Finance* No. 4 pp. 394-413
- Nelson, Susan (1999), "Issues in Simplifying the Taxation of Small Business," *Proceedings of the 92nd Annual Conference of the National Tax Association*, pp. 103-113.
- Newlon, T. Scott (2000), "Transfer Pricing and Income Shifting in Integrating Economies," in *Taxing Capital Income in the European Union. Issues and Options for Reform*, in Sijbren Cnossen (ed.) Oxford: Oxford University Press, pp. 214-242.46-77.
- Nielsen, Søren Bo, Pascalis Raimondos-Møller, and Guttorm Schjelderup (2004), "Tax Spillovers under Separate Accounting and Formula Apportionment," Economic Policy Research Union paper 01-07, Copenhagen Business School.

- Omer, Thomas C. and Marjorie K. Shelley (2004), "Competitive, Political, and Economic Factors Influencing State Tax Policy Changes," *Journal of the American Taxation Association* 26 (Supplement), pp. 103-126.
- Organization for Economic Cooperation and Development (2005), *Model Tax Convention on Income and Capital*, Paris: OECD.
- _____ (2004a), "Discussion Draft on the Attribution of Profits to Permanent Establishments. Part I (General Considerations)" Paris: OECD.
- _____ (2004b), *Tax Administration in OECD Countries: Comparative Information Series*, OECD, Centre for Tax Policy and Administration, Paris: OECD.
- _____ (2003a), "Are the current treaty rules for taxing business profits appropriate for E-commerce?" Public Discussion Draft, 26 November 2003.
- _____ (2003b), *Structural Statistics for Industry and Services, 1993-2000*, Paris: OECD.
- _____ (1995), *Transfer Pricing Guidelines for Multinational Enterprises and Tax Administrations*, Paris: OECD.
- _____ (2000), *Towards Global Tax Co-Operation. Progress in Identifying and Eliminating Harmful Tax Practices*, Paris: OECD.
- _____ (1998), *Harmful Tax Competition: An Emerging Global Issue*, Paris: OECD.
- Perry, J. Harvey (1989), *A Fiscal History of Canada – The Postwar Years*, Canadian Tax Paper No. 85, Ontario: The Canadian Tax Foundation.
- Pethig, Rudiger and Andreas Wagener (2004), "Profit Tax Competition and Formula Apportionment," paper presented at the IIPF conference, Prague.
- Plesko, George A. (2002), "Reconciling Corporation Book and Tax Net Income, Tax Years 1996-1998," *Statistics of Income Bulletin*, pp. 111-132.
- Przysuski, Martin and Srini Lalapet (2005), "Ontario May Begin International, Interprovincial Transfer Pricing Audits," 39 *Tax Notes Int'l* 783 (Aug. 29, 2005).
- Raventós-Calvo, Stella and José Luis de Juan y Peñalosa (2002), "The Commission's Proposals on Company Taxation from a Spanish Perspective," 42 *European Taxation* 8, pp. 331-335.
- Resch, Richard X. (2003), "The Taxation of Profits without a Permanent Establishment," in *Permanent Establishments in International Tax Law*, ed. Hans-Jorgen Aigner and Mario Zuger, Vienna: Linde Vberlag Wien, pp. 475-500.
- Robinson, Peyton H. (2000), "The Globally Integrated Multinational, The Arm's-Length Standard, and the Continuum Price Problem," 9 *Tax Management Transfer Pricing. No. 13 Special Report*, Washington, D.C.: Bureau of National Affairs, pp. S3-S24.
- Rosenbloom, H. David (2005), "Angel's on a Pin: Arm's Length in the World," 38 *Tax Notes International* 523 (9 May 2005), pp. 523-530.
- Schoettle, Ferdinand P. (1977), "The U.K. Treaty and the State Taxation of Corporate Income," 5 *Tax Notes* 3 (Apr. 4, 1977).
- Shay, Stephen E., J. Clifton Fleming, Jr., and Robert J. Peroni (2002), "What's source got to do with it? Source rules and U.S. international taxation," 56 *Tax Law Review* No. 1, pp. 81-156.
- Sheffrin, Steve M. and Jack Fulcher (1984), "Alternative divisions of the tax base: How much is at stake?" in Charles E. McLure, Jr. (ed.), *The State Corporation Income Tax: Issues in Worldwide Unitary Combination*, Stanford, CA: Hoover Institution Press, pp. 192-213.
- Sheppard, Lee (2005), "Dowdy Retailer Set to Destroy European Corporate Tax, Part 2," 38 *Tax Notes Int'l* 627 (23 May 2005).
- Shipley, David J., Scott D. Smith, and Brad A. Bauer (2004), "A New Paradigm for State Corporate Income Tax Planning: Part I --- The Changing State Environment," 33 *State Tax Notes* (September 6, 2004), pp. 707-22.

- Smith, Ernest H. (1998), *Federal-Provincial Tax Sharing and Centralized Tax Collection in Canada*, Special Studies in Taxation and Public Finance, No. 1, Canadian Tax Foundation.
- _____ (1976), "Allocating to provinces the taxable income of corporations: How the federal-provincial allocation rules evolved," *Canadian Tax Journal*, Vol. 24, pp. 545-71.
- Sorensen, Peter B. (2004), "Company tax reform in the European Union," 11 *Journal of International Tax and Public Finance* 1, pp. 91-115.
- Summers, Lawrence H. (1988), "Taxation in a Small World," in *Tax Policy in the Twenty-First Century* Herbert Stein (ed.), New York: John Wiley & Sons, pp. 64-75.
- Tax Analysts (2002), "e-Forum: Company Taxation in the European Union," 25 *Tax Notes International* 153 (January 14, 2002), pp. 153-174.
- Treff, Karen and David B. Perry (2003), *Finances of the Nation. A review of the expenditures and revenues of the federal, provincial, and local governments of Canada*, Ontario: Canadian Tax Foundation.
- Union of Industrial and Employers' Confederations of Europe (UNICE) (2004), *Letter to Commissioner Frits Bolkestein from UNICE Secretary General*, 6 September 2004.
- _____ (2000), "Memorandum on cross-border company taxation obstacles in the Single Market," April 2000.
- _____ (1999), "Transfer Pricing Issues and the Arbitration Convention," joint UNICE/European Round Table memo, September 1999.
- _____ (1994), "Letter from UNICE Secretary General Zygmunt Tyszkiewicz to U.S. Treasury Assistant Secretary Leslie B. Samuels," 26 January 1994.
- Unilever (2004), *Annual Report*.
- UK Inland Revenue (2005), *International Manual (INTM460150)*, United Kingdom.
- U.S. Department of the Treasury (2000), *The Deferral of Income Earned Through U.S. Controlled Foreign Corporations. A Policy Study*, Washington, D.C.: U.S. Treasury, Office of Tax Policy.
- (1996), *Conference on Formula Apportionment*, December 12, 1996, Office of Tax Policy, Washington, D.C.
- and the Internal Revenue Service (1988), "A Study of Intercompany Pricing Under Section 482 of the Code (the White Paper)," Notice 88-123, 1988-2 C.B. 458.
- U.S. General Accounting Office (1995), *California Taxes on Multinational Corporations and Related Federal Issues*, GAO/GGD-95-171, Washington, D.C.
- U.S. House of Representatives (1964), *Report of the Special Subcommittee on State Taxation, 1: State taxation of interstate commerce* (the Willis Report), 88th Congress, 2nd Session, Washington, D.C.: U.S. Government Printing Office.
- Vanistendael, Frans (1992), "Comments on the Ruding Committee Report," *EC Tax Review*, 1.
- Weiner, Joann Martens (2005), "Formulary Apportionment and Group Taxation in the European Union: Insights from the United States and Canada," *European Commission Taxation Working Paper* No. 8, Luxembourg: Commission of the European Communities.
- _____ (2001a), "The European Union and Formula Apportionment: Caveat Emptor," 41 *European Taxation* 10 (October), pp. 380-88.
- _____ (2001b), "EU Commission Study on Company Taxation and the Internal Market Considers Comprehensive Company Tax Reform," 24 *Tax Notes International* 511 (October 29, 2001), pp. 511-18.
- _____ (1999), "Using the Experience in the U.S. States to Evaluate Issues in Implementing Formula Apportionment at the International Level," OTA Paper 83, Office of Tax Analysis, Washington, D.C.: U.S. Department of the Treasury.
- _____ (1994), *Company Taxation for the European Community. How Sub-National Tax Variation Affects Business Investment in the United States and Canada*, Harvard University Ph.D. dissertation (unpublished).

- _____ (1992), "Tax coordination and competition in the United States of America," Annex 9C in *Report of the Committee of Independent Experts on Company Taxation (the Ruding Report)*, Luxembourg: Official Publications of the European Communities, pp. 417-38.
- Wellisch, Dietmar (2004), "Taxation under formula apportionment --- tax competition, tax incidence, and the choice of apportionment factors," 60 *Finanzarchiv* 1, pp. 24-41.
- Westberg, Björn (2002) "Consolidated Corporate Tax Bases for EU-Wide Activities: Evaluation of Four Proposals Presented by the European Commission," 42 *European Taxation* 8, pp. 322-30.
- Wetzler, James W. (1995), "Should the U.S. Adopt Formula Apportionment?" 48 *National Tax Journal* 3, pp. 357-62.
- Wilson, John D. (1999), "Theories of Tax Competition," 52 *National Tax Journal* 2, pp. 269-304.

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