
The EC Tax Journal

BOOK REVIEW

The Law of Money and Financial Services in the European Community

by J A Usher, Salvesen Professor of European Institutions and Director of the Europa Institute, University of Edinburgh 2nd Edition, Oxford University Press, 300 pages, ISBN 0-19-829877-3 £65

The second edition of this book in the Oxford EC Library, published earlier this year, may not immediately attract the attention of focused tax-lawyers. Yet they will undoubtedly find much of interest in it.

As the title suggests there are chapters on topics such as "Money in the context of the EC Treaty", "Capital Movements" and "The application of EC competition rules to financial services". A chapter on EC Treaty rules applicable to cross-border financial services usefully places some of the "tax" cases on freedom of establishment and freedom to provide services in a broader context. It is followed by a chapter on the Community legislation affecting banking, investment, and loans. The majority of the remainder of the book looks at matters related to the euro and monetary union and concludes with a chapter entitled "External monetary relations and influences", which amongst other things considers some implications of the General Agreement on Trade in Services.

One important addition to this edition of the book is a chapter on "Monetary movements, taxation, and the Treaty 'freedoms'". This has sections entitled "Tax incentives and the state aid rules" "Tax competition" "Tax evasion" and "Tax Discrimination". The latter contains some interesting observations on, what is now, Article 58(1)(a) of the EC Treaty, still better known, perhaps, as Article 73(d)(1)(a), and the Declaration attached to the Maastricht Treaty concerning tax law, considered in an earlier issue of this Journal. The difficulties which surround this area have been much ventilated in academic writing and Professor Usher's comment that:

"...it is now clear that there is a conflict between the Treaty rights of freedom of establishment and free movement of workers as interpreted in *Commerzbank*, *Wielockz*, *Schumacker*, *Luxembourg*,

and *Asscher*, on the one hand, and the discriminatory tax treatment apparently authorised by Art.58(1)(a) on the other.”
(p.56)

is the prelude to a stimulating discussion of the issues, the practical implications of which continue to be established.

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