

Interpretation of tax treaties within the context of international law

Tax treaties are legal arrangements that require interpretation, since the technical structures of them and the signatory countries' usage of the terms in the relevant texts in different meanings within their domestic law. General interpretation rules regarding international treaties are regulated in the Vienna Convention on the Law of Treaties (VCLT). However, there are some discussions about the implementation of the rules of interpretation.

Rules used in the interpretation of tax agreements may be classified as the rules regulated within VAHS, special comment rules and commentaries.

The basic and most comprehensive rules for interpreting tax treaties are regulated between the 31st and 33rd articles of VCLT. General rules and complementary rules for commenting are included in the related articles of VCLT. In that context, general comment rules may be identified as;

- Commenting throughout the agreement
- Commenting in accordance with the ordinary meanings of the terms
- Commenting on the purpose and subject of the agreement

Complementary rules are resorted to confirm the meaning that is obtained with general interpretation rules or to make a clear meaning in cases that cannot be clarified with general interpretation rules.

Special comment rules are based on the use of countries' domestic rules of law and the use of mutual agreement procedure. The provisions of Article 3/2 of the OECD and UN Models empower them by referring to the domestic law of the states in determining the meaning of the terms used in the agreements but not defined in the agreements. Therefore, if there are terms that are not defined in the agreement, the rules of domestic law can be used. Similarly; as per the Article 25/3 of the Model Agreements, the contracting states may apply for mutual agreement to reduce any difficulties and doubts in the interpretation of the agreements.

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