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Leiden**
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The effect of directives within the area of direct taxation on the interpretation and application of tax treaties

Vergouwen, T.M.

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Stellingen behorende bij het proefschrift

The effect of directives within the area of direct taxation on the interpretation and application of tax treaties

door Thomas Mees Vergouwen

1. Directives should qualify as decisions of international organisations under public international law (Chapter 2).
2. Directives qualify as ‘context’ within the meaning of article 3(2) OECD Model based on the OECD Commentaries to article 3(2) OECD Model 2017 for tax treaties concluded between EU Member States (Chapter 3).
3. The *lex posterior* rule and *lex specialis* rule can be applied to conflicts between treaties and directives as decisions of international organisations (Chapter 6).
4. When concluding tax treaties, Member States should include a subordination clause providing that the tax treaty is inapplicable to the extent incompatible with present and future obligations arising from the laws of the European Union (Chapter 10).
5. Directives should explicitly clarify the extent to which they are intended to affect tax treaties with third states (Chapter 10).
6. Article 94 of the Dutch constitution requires amendment in order to enable the Netherlands to comply with its obligations under ATAD1 and ATAD2.
7. Tax treaties should contain a provision explicitly indicating the status that is to be attributed to earlier and later OECD Commentaries for the purposes of their interpretation.
8. Updates to the OECD Model should be accompanied by a multilateral treaty aimed at introducing such updates to the bilateral tax treaty network to maximize the effectiveness of such updates.
9. The number of signatories to the MLI is not an accurate reflection of the state of effectiveness of the MLI in terms of tax treaties affected.
10. A thesis defense presentation (*‘lekenpraatje’*) preceding the PhD defense should become mandatory at PhD defenses at Leiden University.