BOOK REVIEW: BROWN, KAREN B. (ED.) (2012). *A COMPARATIVE LOOK AT REGULATION OF CORPORATE TAX AVOIDANCE*. DORDRECHT: SPRINGER.

Yuliya Epifantseva and Nigar Hashimzade[1]

This is an impressive collection of 16 country reports, written by legal scholars, on measures taken towards countering tax avoidance. The countries represent Western and Central Europe, North America, Asia, and Australasia, and each country report chapter details various similarities and differences in national approaches to an international problem.

In the preface and introduction, Karen B. Brown, the editor of the volume, describes tax avoidance as a legal but unacceptable activity, which involves taking advantage of ambiguous language of statutes to gain benefits not enjoyed by others, and not intended or anticipated by legislators. In characterising tax avoidance, Brown emphasises the importance of equity and of paying one's fair share of tax: thus, tax avoidance is unacceptable because it shifts the burden of tax onto others. Furthermore, tax avoidance is viewed as a threat to the sovereign right to govern citizens, because it undermines a sovereign intent to treat all taxpayers equally in accordance with the society's values. This perspective on tax avoidance references the recent "sustained decline of world economies" and the need to ensure revenue-raising capacity.

Tax avoidance is contrasted with tax evasion, and with acceptable tax mitigation where the tax advantage is taken as intended by legislators. Further reading reveals that in many countries there are no statutory definitions of tax avoidance and tax mitigation, even though these terms are widely used in practice, whereas the definition of tax evasion refers to the practice being illegal and involving the 'deliberate deceit' of the tax authority. The term "tax mitigation" is not recognised in China (p. 112), while in Germany "only the disguising of tax avoidance is punishable" (p. 166). At the same time, in the UK, the distinction between acceptable mitigation and unacceptable avoidance "is not fixed and legislation is sometimes introduced to stop tax planning devices which had been thought to be acceptable" (p. 319).

Each country report chapter describes: the country's legal system; the main features of tax law; the distinctions made between tax evasion, tax avoidance, and tax mitigation; and the measures taken to counter tax avoidance. They are not, however, entirely uniform, perhaps revealing the differences in intellectual approaches to tax avoidance in these jurisdictions. The chapter on France is, rather bewilderingly, in French, thus depriving the non-francophone readership of undoubtedly one of the most fascinating accounts of tax avoidance in this volume. The chapter on Germany states at the outset that "a description of the German legal system would be incomplete if it did not take into account that Germany is an integral member of the European Union" (p. 152) and includes subsections with descriptions of EU law and European tax law. The only other reference to the unified Europe is in the chapter on Poland, which begrudgingly mentions the country's specific anti-avoidance measures based on EC law (for corporate income tax, but not for taxation applicable to interest and royalty payments). Chapters on anglophone countries pay special attention to the tax intermediaries: the chapters on Australia and Canada discuss penalties for "promoters", where the term may also apply to tax advisors, whereas the chapters on the UK and the United States each have a section on professional conduct and ethics of tax professionals. Somewhat disappointingly, there are no chapters on

[1] Views and opinions expressed herein are not intended to reflect views, positions or policy of any employer, organisation or entity with which either of us is, or has ever been, affiliated.

African countries, contrary to the description on the back cover. An appendix helpfully summarises the anti-avoidance measures taken in all 16 countries included in this volume.

While this might not have been the main subject, one cannot help but reflect on two issues threading throughout the book. Firstly, why is there a need for the governments to prevent and punish tax avoidance if it is legal? Secondly, what is the future of anti-avoidance measures? According to Brown, in addition to the violation of fairness and the waste of resources (by taxpayers and promoters in setting up and using avoidance devices, and the cost to the tax authorities in having to tackle the vice), the damage caused by tax avoidance is a result of the undermining of "the ability of the tax authority to predict the amount of revenue to be raised by a given tax provision" (p.1). Meanwhile, nothing in the book addresses these issues as applied to the ability of taxpayers to predict their tax liabilities when entering transactions in an environment where the distinction between acceptable and unacceptable is not fixed. One argument against the uncertainty in law is that it undermines the ability of citizens to predict the implications of their choices and thus leads to a choice distortion. However, uncertainty in tax law might be a special case - indeed, its desirability at individual and social levels is a subject of debate in the tax law literature.

Another interesting issue worth discussing is the dynamics of the changes in legal treatment of, and societal attitudes to, tax avoidance. The question that remains unanswered here is what drives these dynamics. One explanation is that an economic decline leads to a fall in revenue and rise in social welfare expenditure, and thus prompts a closer scrutiny of tax saving schemes. Perhaps measures against corporate tax avoidance are especially attractive in light of fairness and social justice when the majority of electorate - the 'ordinary taxpayers'- suffer during an economic downturn, which may cause gradual shrinking of the range of 'acceptable' tax-saving behaviours. However, countries are now recovering from the most recent economic and financial crisis (excluding the Brexit shock, the negative effect of which on the UK economy, in addition to the earlier financial crisis, may or may not be long-lasting). With less pressure to raise revenue, will the stringent anti-avoidance framework be relaxed, or are we going to see a hysteresis effect or perhaps even a permanent shift? It remains to be seen whether the explosion of national and transnational anti-avoidance measures presented in the book will survive an economic upturn.