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#### ■ "Interpretation of Double Taxation Conventions"

*International Tax Law, Vol. 78, pp. 469-496, 1993*

*Victoria University of Wellington Legal Research Paper No. 72/2015*

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New Zealand has concluded double tax agreements with 24 countries. Double tax conventions are brought into effect by Orders in Council, a form of subordinate legislation. They are also incorporated in legislation by reference under section 294 of the New Zealand Income Tax Act 1976, which states that the terms of an Order in Council of the kind mentioned take precedence over the terms of the Income Tax Act. New Zealand courts accept that treaties are diplomatic, rather than legalistic, documents, and should be interpreted liberally, at least in theory. They also recognise that the interpretation of a treaty is a matter of international law. In practice, and with notable exceptions, judges tend to interpret tax conventions in the same way in which they interpret legislation in general, with rather close attention to and even analysis of the text in issue.

## "Accumulation Trusts and Double Taxation Conventions"

*British Tax Review, Vol. 1, pp. 69-82, 2001*

*Victoria University of Wellington Legal Research Paper No. 73/2015*

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Ordinarily, double tax conventions restrict their benefits to residents of the states that are parties. Moreover where a resident of one state claims relief in respect of income derived from the other state, the claimant must ordinarily be "beneficially" entitled to the income in question. How do these rules apply to trustees who are resident in one state and who accumulate income that they derive from sources in the other state? That is, must the jurisdiction of source recognize such trustees as (a) residents of the jurisdiction of destination and (b) beneficially entitled to the income, and therefore entitled to exemption or tax relief? As a matter of interpretation, the answer may vary according to the terms of the applicable convention. This article sets out arguments for and against the proposition that the state of source may in some circumstances be bound to grant treaty benefits to trustees resident in the state of destination even though the ultimate beneficiaries of the trust in question are resident elsewhere.

## "Controlled Foreign Company Regimes and Double Taxation"

*Asia Pacific Tax Bulletin, Vol. 12, pp. 3-5, 2006*

*Victoria University of Wellington Legal Research Paper No. 74/2015*

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Without a controlled foreign company regime, taxpayers can establish companies in other countries to trap foreign-source income or accept income diverted from domestic sources. At one extreme, a regime may cover all foreign jurisdictions. At another, it may cover only tax havens. Some countries apply their controlled foreign company regimes to certain categories of income only, generally passive income, or income from transactions with the foreign company's domestic owners. Other regimes cover all income, including the income of active businesses. Regimes ordinarily contain provisions to mitigate double taxation that may occur when a local taxpayer sets up a company in a foreign jurisdiction for a commercial or industrial purpose.

## "International Double Taxation of Inheritances and Gifts"

*LXXb Cahiers de Droit Fiscal International, pp. 459-470, 1985*

*Victoria University of Wellington Legal Research Paper No. 75/2015*

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The inheritance tax system in New Zealand revolves around an estate duty, levied on deceased estates and a gift duty on inter vivos gifts. There is no capital gains tax. The Estate and Gift Duties Act 1968 does not contain any general anti-avoidance provisions. Avoidance of duty is common. Section 40 of the Act allows for unilateral relief for foreign duties. The article discusses the rationale of international rules relating to duties and conducts an analysis of the adequacy of New Zealand's rules for the relief of double taxation.

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Victoria University of Wellington Legal Research Papers Series primarily contains scholarly papers by members of the **Faculty of Law at Victoria University of Wellington**. Some issues collect a number of papers on a similar theme to form a suite of papers on a single topic. Others issues are general or distribute mainly recent work.

The Student/Alumni Series is a subseries of the Victoria University of Wellington Legal Research Paper Series. The subseries started in 2015 and publishes papers by students and alumni of Victoria University of Wellington, comprising primarily work for honours and postgraduate courses. Papers are collected into thematic or general issues.

The Victoria University of Wellington was founded in 1899 to mark the Diamond Jubilee of the reign of Queen Victoria of Great Britain and of the then British Empire. Law teaching started in 1900. The Law Faculty was formally constituted in 1907. The first dean was Richard Maclaurin (1870-1920), an eminent scholar of both law and mathematics. Maclaurin went on to lead the Massachusetts Institute of Technology as President in its formative years. Early professors included Sir John Salmond (1862-1924), still one of the Common Law's leading scholars. His texts on jurisprudence and torts have gone through many editions and remain in print.

Alumni include Sir Robin Cooke (1926-2006), one of the leading judges of the British Commonwealth. As Baron Cooke of Thorndon, he sat on over 100 appeals to the Appellate Committee of the House of Lords, one of very few Commonwealth judges ever appointed to do so.

Since 1996 the Law School has occupied the Old Government Building in central Wellington. Designed by William Clayton and opened in 1876 to house New Zealand's then civil service, the building is a particularly fine example of Italianate neo-Renaissance style. Unusually among large colonial official buildings of the time it is constructed of wood, apart from chimneys and vaults.

The School is close to New Zealand's Parliament, courts, and the headquarters of government departments. Throughout Victoria's history, our law teachers have contributed actively to policy formation and to law reform. As a result, in addition to many scholarly articles and books, the Victoria SSRN pages include a number of official reports.

Victoria graduates approximately 230 LLB and LLB(Hons) students each year, and about 60 LLM students. The faculty has an increasing number of doctoral students. Ordinarily there are ten to twelve students engaged in PhD research.

Victoria University observes the British system of academic ranks. In North American terms, lecturers and senior lecturers are tenured doctrinal scholars, not legal writing teachers. A senior lecturer corresponds approximately to a North American associate professor in rank.

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