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# THE EC TAX JOURNAL

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E C T J

Volume 3, 1999 Issue 2

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All editorial correspondence should be addressed to  
Timothy Lyons, The Managing Editor,  
24 Old Buildings, Lincoln's Inn, London WC2A 3UP

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## From the Editors

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### EDITORIAL

It is a pleasure to welcome on to the editorial board Jonathan Schwarz who represents the European Branch of the Chartered Institute of Taxation. The journal will benefit greatly from his considerable experience. Congratulations are due to another member of the Advisory Editorial Board, Paul Farmer, who has taken up an appointment as Adviser to the Director of Tax Policy, Mr Aujean, at the European Commission.

In this issue we are pleased to publish a stimulating article by Peter Cullen on fraud against the Community budget. This topic is of great relevance to tax lawyers concerned with VAT, excise duties and customs duties. It also has effects on those practising outside the EU. For example, one recommendation in the Council of Ministers' Action Plan calls on Member States to:

"...take action and provide adequate defenses (*sic*) against the use by organised crime of financial centres and off-shore facilities, in particular where these are located in places subject to their jurisdiction."

As Peter Cullen says: "Readers in the Channel Islands might wish to take note." (p67). The position of the Channel Islands and the Isle of Man is specifically considered, in a different context, in a valuable article by Philip Bentley QC on the implications of recent EC tax initiatives for the Channel Islands and the Isle of Man. Given the increased interest in the offshore financial centres by the EC, it is perhaps no surprise that there have recently been newspaper reports that some in the Isle of Man, at least, wish to loosen their ties with the UK.

Like Professor Easson in the previous issue, Philip Bentley notes the possibility of tax distortions being subjected to challenge on the basis of the provisions of the EC Treaty (p.88). Eric Osterweil in his helpful article on the differing approaches of

the EU and OECD to tax competition mentions the same point calling the state aid provisions of the EC Treaty a "potent weapon" (p.98).

As we noted in the last issue, using this potent weapon can produce significant problems. Yet the fundamental problem, perhaps, is that while, at one level, Member States concern themselves with eliminating harmful tax competition, at another level they inevitably remain concerned to create tax systems which will make their jurisdictions attractive to business when compared with other Member States. One attempt to do this is discussed by Christian Emmeluth, who provides a useful overview of the new tax rules for Danish holding companies.

Another article on the domestic law of one Member State which will prove of wider interest is provided by Robert Venables QC, who considers the issue of VAT groups in the UK. Also concentrating on VAT is Stephen Coleclough's article on *First National Bank of Chicago*. Both these interesting contributions highlight two areas of VAT in which complete clarity is yet to be achieved.

For editorial reasons the regular book review has been held over to the next issue, for which copy is requested by 14th May 1999.

Robert Venables QC

Timothy Lyons

24 Old Buildings  
Lincoln's Inn  
London WC2A 3UP

8th February 1999