



# Relevance of Domestic Law for the Interpretation of Tax Treaty Law

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# Different Layers of Law

- Domestic law
- Tax treaty law
  - Effect of tax treaty: to put limitations on domestic law
  - International origin of tax treaties



# Interpretation of tax treaties

- Ordinary meaning
- (international) context
- Object and purpose (avoidance of double taxation, allocation of taxing rights)
- History (OECD Model Convention and Commentaries)



# Art 3 par 2 OECD Model Convention

- Definitions (e.g. Art 3 par 1 OECD Model)
- „unless the context otherwise requires“
  - Ignoring this phrase?
  - Broad meaning of context
  - „requires“?
- Last resort: Domestic law



## Other references to domestic law

- Art 10 par 3 OECD Model Convention
- Art 6 par 2 OECD Model Convention



## Art 23 OECD Model Convention

- Qualification in source state relevant?
- Binding effect for residence state?
- Legal basis?
- Political consequence: Invitation for source state to extend its own taxing rights
- Political consequence: Residence state will not accept
- Qualification conflicts



## Conclusion

- Avoidance of double taxation
- Allocation of taxing rights between two contracting states requires uniform interpretation
- No reference to domestic law
- Focussing on context, object and purpose, history etc
- No difference to interpretation in other areas