

Advance Tax Rulings And Principles Of Law Towards A European Advance Tax Rulings System Doctoral

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advance tax rulings are a common feature of mature tax systems the tax systems of the united states the united kingdom the netherlands germany australia and south africa all have established ruling practices taxpayers can obtain an advance tax ruling in nearly all oecd member countries increasingly many non oecd countries are also offering advance tax rulings an advance tax ruling regime seeks to promote clarity and consistency regarding the application of the tax law for both taxpayers and the tax authority however there are also inherent risks associated with the proliferation of granting confidential advance tax rulings which are not published or otherwise reported this tax law imf technical note focuses on designing an advance tax ruling regime in the nature of private tax rulings

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comprehensive study on the advance tax ruling the main procedural and substantive elements of current tax rulings systems worldwide are investigated and the legal principles underlying advance tax rulings procedures in the united states the netherlands and italy are identified in the final chapters an overview of the status quo of advance tax rulings systems in the eu member states is followed by a discussion concerning the harmonization of advance rulings systems in the european union

advance tax rulings allow taxpayers to achieve certainty about the tax consequences of contemplated transactions and are thus considered indispensable in the modern world of tax administration and compliance after providing empirical evidence of tax law uncertainty which should give rise to a demand for advance tax rulings the article shows that advance tax rulings are in fact infrequently used to explain this counterintuitive finding the article analyzes the taxpayers strategic considerations when deciding whether to request an advance tax ruling the strategic disadvantages of applying for an advance tax ruling are shown usually to outweigh the strategic advantages of such a request since the same strategic considerations apply when taxpayers decide whether to request an advance pricing agreement a new procedure for resolving transfer pricing disputes this analysis also explains why despite considerable attention from scholars and practitioners in recent years advance pricing agreements have been infrequently used and are therefore unlikely to resolve the transfer pricing problem probably the most significant problem in modern international taxation

advance tax rulings are an increasingly common feature of mature income tax systems throughout the world the organisation for economic co operation and development s oecd s work demonstrates that there has been a trend from 1990 to 2013 among oecd member countries to adopt advance tax rulings regimes the international expansion of advance tax rulings seems both intuitively desirable and salutary upon deeper reflection both theoretically and empirically however there is a puzzle why are advance tax rulings regimes so popular this article makes two contributions to our understanding of advance tax rulings the first contribution is to highlight that the increased pervasiveness of advance tax rulings internationally is potentially puzzling in the light of givati s analysis which suggests that the balance of strategic considerations facing taxpayers systematically disfavours taxpayers seeking advance tax rulings theory thus appears at least as a preliminary matter to be out of step with the observed rulings practices tracked by the oecd we then consider how to resolve the puzzling popularity of advance tax rulings we find the increased pervasiveness of advance tax rulings regimes should not be entirely surprising despite the apparent conflict with economic theory to complement the arguments from theory we offer some tentative evidence that advance tax rulings may not be of any consequence economically speaking empirical analyses of panel data of rulings practices published by the oecd do not show any reliable correlations of observed practice with social or economic fundamentals this finding is consistent with the puzzle posed by economic theory which suggests that rulings regimes are not likely to be particularly important in practice this can arise in part due to the relatively slow process for issuing advance rulings

compared to the timeframe facing taxpayers to make key business decisions from an optimistic perspective advance tax rulings are best regarded as serving an expressive function in support of the rule of law and sound tax administration less generously a cynic might be tempted to say that the resolution to the puzzle posed by the incongruence between theory and practice may be that the best reason to have a binding rulings regime may be because just about everyone else has one

our empirical study tests the effect of advance tax rulings on the tax avoidance of multinational firms in 2014 the international consortium of investigative journalists published confidential documents that identify hundreds of firms worldwide that had benefited from advance tax rulings in the tax haven luxembourg we apply a difference in differences approach and find that after engaging in an advance tax ruling firms have lower effective tax rates compared to non ruling firms the results are robust even if we mitigate a potential self selection bias via propensity score matching consequently this study gives evidence for tax avoidance through a newly made public legally assured tax shelter

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