

## ABSTRACT

This dissertation starts with an analysis of the non-discrimination principle in international tax law. As a consequence article 24 of the OECD Model Convention is analysed and its main features and insufficiencies are described. This chapter ends with a comparison of the non-discrimination provision in the most recent Portuguese double taxation conventions (DTC) and the OECD Model.

The next chapter (chapter II) is occupied with the non-discrimination principle in EC Tax Law. In this chapter the functioning of the principle as it is being applied by the European Court of Justice (ECJ) is analysed. The chapter starts with a comparison of the evolution of the ECJ case law with the US Supreme Court case law. The chapter ends with an analysis of some of the most relevant issues discussed in the ECJ related with non-discrimination in tax law, namely, thin-capitalization, control foreign companies (CFC), most-favoured-nation clause (MFN clause) and group taxation.

As it has been described in a study ordered by the European Commission recently, several articles of the OECD Model Convention are incompatible with the four freedoms guaranteed in the EC Treaty. Article 24 is one of those articles. Therefore, chapter III purposes a new wording of the article inspired in solutions achieved in other fields of the law and that is centered in the explicitation of the discrimination concept as it has been defined by the ECJ.

*Keywords:* non-discrimination, article 24 of the OECD Model Convention, European Court of Justice, non-discriminatory restriction, EU Model Convention, (same) similar circumstances.