Examining the Income Tax Jurisdiction Rules of the Federal Income Tax Law of Ethiopia *vis-a-vis* the Doctrines of Income Taxation Power of States

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Abstract

Although there are no restrictions under international law on how countries do exercise their taxation power, they do not, however, assume tax power over a certain income arbitrarily. States, rather, design their tax jurisdiction rules in consideration of different doctrines of taxation. These doctrines of taxation are ideals or indexes of a good income tax system. Thus, examining the Ethiopian income tax laws in light of these doctrines of taxation is important to know the current position of the country's income tax system. Accordingly, the aim of the Article is to evaluate whether the Ethiopian income tax law has been designed in consideration of the doctrines of taxation. To this end, following a qualitative research approach the relevant provisions of Ethiopia's Federal Income Tax Proclamation no.979/2016, and pertinent literature have been analyzed and synthesized. Finally, the paper concludes that, in principle, the Ethiopian income tax proclamation has largely designed tax jurisdiction rules in consideration of the sovereignty, and economic allegiance theories. And, as can be understood from the withholding schemes of the law, the jurisdiction rules of the Ethiopian income tax law have also considered the realistic doctrine.

Keywords: Doctrines of Taxation/Ethiopia/Income Tax/Tax Jurisdiction/

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1. Introduction

Commonly, States assume tax power based on residence and source principles.[1] Yet, in the taxation of income based on these principles, states do not design their jurisdiction rules in an arbitrary manner. They mostly attached their tax jurisdiction to a certain connecting factor. Accordingly, states designed the scope of application of their income tax laws and structure their jurisdiction rules in consideration of different doctrines of taxation such as sovereignty doctrine, economic allegiance, benefit doctrine, and realistic doctrine. The Income-tax jurisdiction of Ethiopia is based on the personal and territorial base jurisdiction. However, whether the Ethiopian income tax law is designed in consideration of the doctrines is not examined yet. However, discussing the taxation doctrines, indexes or ideals of a good tax system will have importance since taxation is the main source of government revenue, directly linked with investment or even for academic discourse. The aim of the Article is, therefore, to evaluate whether the Ethiopian income tax law is designed in consideration of the doctrines of taxation. To achieve its ends, the article analyses the Ethiopian income tax proclamations, different books, and journal articles dealing with the theoretical underpinnings and the international experiences regarding tax jurisdiction in a qualitative research approach and document analysis method.

These sets of themes in the article are organized under four sections. Section one provides the type and notion of doctrines of taxation. Section two presents a brief overview of the concept of tax jurisdiction in general and the tax jurisdiction rules of the Ethiopian federal income tax proclamation[2] (FITP) in particular. Section three examines the place of doctrines of taxation under the FITP. In this section, the Authors evaluate the income tax jurisdiction rules of the income tax proclamation in light of the notorious doctrines of taxation. Finally, the paper makes concluding remarks.

2. Doctrines of Income Taxation Power

There are no restrictions under international law to the legislative jurisdiction to impose and collect taxes.[3] States do not arbitrarily assume tax power over a certain income. Instead, States

[1] Irish Charles R., International Double Taxation Agreements and Income Taxation at Source, International and Comparative (1974)23 Law Quarterly 292.
[2] Federal Income Tax Proclamation No.979/2016, Federal Negarit Gazetta (2016), Proc.No.979/2016.
[3] William W. Park, Fiscal Jurisdiction and Accrual Basis Taxation: Lifting the Corporate Veil to Tax Foreign Company Profits (1979)70 Colombia Law Review 1609.

assume tax jurisdiction with definite rationales or doctrines.[4] These doctrines of taxation are ideals or indexes of a good income tax system. Hence, States design the income tax Jurisdiction rules in consideration of the doctrines of the taxing power. Also, States designed income tax rules in consideration of tax administrations. In this section, the Authors discuss the key doctrines behind the assumption of income tax jurisdictions or taxing rights of States with respect to income.

2.1. The Sovereignty Doctrine

The Sovereignty doctrine is based on the notion that sovereignty is the collection of rights and competencies which go to make up the State.[5] The argument in support of the sovereignty doctrine is founded on the premise that since jurisdiction derives from sovereignty, jurisdiction can only extend as far as sovereignty exists. According to this doctrine, jurisdiction is the right and competence of the State to affect the rights of persons through the exercise of judicial, legislative, and administrative powers, which includes the power to make and enforce laws, including tax laws.[6] Accordingly, the scope of the State's fiscal jurisdiction depends on the aspect of sovereignty concerned. Consequently, state jurisdiction will emanate from national sovereignty or territorial sovereignty. National sovereignty applies to citizens and residents of the State.

National sovereignty, thus, allows the State to apply its jurisdiction, including the imposition of taxes, on its citizens and residents with respect to their worldwide income. Understandably, territorial sovereignty, by contrast, is defined by reference to the geographical boundaries of a State, by reference to which the State can make fiscal assertions over non-residents. In this respect, unlike citizens and residents, the taxation of a non-resident person must therefore depend upon the physical presence of the non-resident person within the territory of the taxing State or upon the existence of some property or interest belonging to him upon which the tax may be levied.

2.2. The Benefit Doctrine

[4] Ibid.

[5] NivTadmore, Source in the Digital Age (Clayton Utz, 2012) 2. ‹https://www.claytonutz.com/ArticleDocuments/178/Clayton-Utz-Taxation-Source-in-the-Digital-Age-2012.pdf.aspx?Embed=Y› accessed on April 2022.

[6] Jeffery, Ramon J. The Impact of State Sovereignty on Global Trade and International Taxation (1999) Kluwer Law International 26.

The underlying assumption of this theory is that the State has the right to tax those who derive income using the benefits the State offers. The argument in support of the benefits doctrine is founded on the premise that a large part of the cost of government is traceable to the necessity of maintaining a suitable and secured environment or infrastructure by which a person would create an income.[7] In other words, if a person uses or consumes the public goods and services provided by the State, the latter shall have jurisdiction over the person. Without using public goods and services persons (physical and legal) could not derive income or preserve and maintain their property. As a result, according to this theory, as the State has a contribution to generating a certain income, the State shall assume jurisdiction over the income.[8] Although, one of the features of tax is the absence of quid pro quo, in some respect, the income tax jurisdiction rules of States are designed in consideration of the benefits doctrine.

2.3. The Economic Allegiance Doctrine

According to this doctrine, taxes should be levied where the taxpayer and the corresponding income possessed stronger economic allegiances. This theory alleged that the State where economic activities take place and value is created shall secure its taxation power.[9] Thus, in this doctrine the concept of economic allegiance is important. Economists outlined the following four questions by reference to which economic allegiance is to be determined: Where is the yield physically or economically produced? Where are the final results of the process as a complete production of wealth actually to be found? Where can the rights to the handing-over of these results be enforced? Where is the wealth spent or consumed or otherwise disposed of? As can be understood from each of the questions, essentially, the main factors comprising economic allegiance are (i) the origin of the wealth (i.e., source) and (ii) where the wealth was spent (i.e., residence).[10] Accordingly, this doctrine considers the place of residence and the place of origin are regarded as the main indicator of economic allegiance.[11] In light of this doctrine, residents have economic allegiance with their resident country as they have a closest

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[7] Skaar Arvid A, Permanent Establishment Erosion of a Tax Treaty Principle (Kluwer Law and Taxation Publishers 1991).

[8] Niv Tadmore, Source in the Digital Age (Clayton Utz, 2012) 2. <https://www.claytonutz.com/ArticleDocuments/178/Clayton-Utz-Taxation-Source-in-the-Digital-Age-2012.pdf.aspx?Embed=Y> accessed on April 2022.

[9] OECD, OECD/G20 Base Erosion and Profit Shifting Project – Explanatory Statement – Final Reports, Paris, (2015), < http://www.oecd.org/ctp/beps-explanatorystatement-2015.pdf>accessed on May 2022.

[10] OECD, Are the Current Treaty Rules for Taxing Business Profits Appropriate for E-Commerce? Final Report, (2005) 11.

[11] Moisés Zúñiga Vargas, Does the Substance over Form approach implemented as a result of the BEPS package reconciles the Permanent Establishment definition with the existence of economic allegiances? Master Thesis

economic link in consuming public goods and services and to the source State to the extent of the income arising from its territory. For example, the existence of a permanent establishment serves as evidence of economic allegiances with the source State that is sufficiently strong to justify its taxation rights. And, preparatory or auxiliary activities should not constitute a sufficiently strong economic allegiance to justify the taxation rights of the source State. Yet, the economic allegiance doctrine does not require a physical presence in a State to sanction taxation.[12] Production of wealth focuses upon "the community the economic life of which makes possible the yield." The production of yield may have one physical location and another economic location.[13]

2.4. The Realistic Doctrine

The sovereignty doctrine suggests that without jurisdiction there is no power to tax. The realistic doctrine suggests the opposite, namely without the power to tax there is no jurisdiction. "No rules of international law exist to limit the extent of any country's tax jurisdiction", and therefore, a State's tax jurisdiction is effectively defined by reference to its enforcement competence.[14] The realistic doctrine, due to its very nature, connotes pragmatism and may be best understood on that basis. States do not exercise tax jurisdiction in a vacuum, and the ability to enforce or collect does not necessarily entail assertion, enactment, or enforcement. States must co-exist and exercise self-restraint, and thus must also place a limit on their tax jurisdiction. In light of this doctrine, in the design of tax jurisdiction rules, States shall not only rely on the economic or personal link between a person and a country. Instead, States shall be concerned about enforcing and collecting taxes. Given that States do not, in general, enforce each other's fiscal assertions or judgments, under the realistic doctrine the taxation of non-residents (who have no physical presence or readily accessible assets in the taxing state) often relies on withholding tax.[15] Withholding tax has been regarded as an effective enforcement method that enables the state to pursue assertions against non-residents by imposing intra-territorial measures.

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[12] Niv Tadmore, *supra* 8, 5.
[13] Ibid.
[14] Martin Norr, Jurisdiction to Tax and International Income (1962)17 Tax Law Review 431.
[15] Irish Charles R, International Double Taxation Agreements and Income Taxation at Source, International and Comparative Law (1974) 23 Quarterly 296.

3. Overview of the Concept of Tax Jurisdiction in General and the Tax Jurisdiction Rules of the Ethiopian Federal Income Tax Proclamation No. 979/2016

3.1. The Concept of Tax Jurisdiction in General

The jurisdiction to impose income tax is based either on the relationship of the income (tax object) to the taxing State (commonly known as the source or situs principle) or the relationship of the taxpayer (tax subject) to the taxing State based on residence or nationality.[16] International taxation issues revolve around two main concepts that are also fundamental reasons/causes of international juridical double taxation. These two concepts are known as the concept of source and the concept of residence. Both concepts arise from domestic tax law provisions, which distinguish between two types of taxpayers; non-residents and residents.

The first category of taxpayers would generally have limited nexus (connection) with the country in question; however, the income received by these taxpayers will have an economic link or will originate in the particular country. This country wishes to levy tax on this taxpayer, however only in respect of the income originated therein (having source in this country), referred to as source taxation and sometimes known also as limited tax liability.[17] The second category of taxpayers or residents would have a close personal and economic connection (nexus) with the country in question and the country chooses to tax this taxpayer on his/her worldwide income referred to as worldwide taxation and sometimes known also as unlimited tax liability.[18] These two concepts are further explained in the sections below. Thus, most countries exercise their jurisdiction to tax by reference to factors that assume a sufficient connection between the relevant country and the taxable person and/or the taxable income.[19] And, taxation systems based on a sufficient connection between the relevant country and the taxable person apply the principle of residence-based taxation. [20]

Due to the proliferation of international trade since the Second World War, the issue of international tax becomes a challenge.[21] To overcome this problem generally, two basic rules

[16] UN, Committee of Experts on International Cooperation in Tax Matters, Revision of the Manual for the Negotiation of Bilateral Tax Treaties, Seventh session, Item 5 (h) of the provisional agenda, final report, Geneva, (2011) p.9.
[17] Ibid.
[18] Ibid.
[19] UN, Committee of Experts on International Cooperation in Tax Matters, Revision of the Manual for the Negotiation of Bilateral Tax Treaties, Seventh session, Item 5 (h) of the provisional agenda ,Geneva, (2011) p.11.
[20] UN, Committee of Experts on International Cooperation in Tax Matters, Revision of the Manual for the Negotiation of Bilateral Tax Treaties, Seventh session, Item 5 (h) of the provisional agenda ,Geneva, 2011)p.10.
[21] Richard J. Vann, International Aspects of Income Tax, in *Tax Law Design and Drafting* (1996)2Victor Thuronyi (ed.), International Monetary Fund 686-687.

of tax jurisdiction of countries existed. The first one is the taxation of persons from outside a country who work, enter into transactions, or have a property (income) in the country.[22] That is the source rule. The second one is the taxation of persons who belong to a country and work, enter into transactions, or have a property (income) abroad.[23] This is the residence rule.

Residence denotes the concept of a person's belongingness to a country.[24] On the other hand, a source indicates whether a particular income is sourced inside or outside of the country.[25] In income tax, the applicable rule is the taxation of the domestic income of non-residents and taxation of the worldwide income of residents.[26] Double taxation of the same income and non-taxation of the income are the challenges of international taxation faced through applying the source and residence rule of income tax jurisdiction.[27] These negatively affect international trade transaction and results in loss of national revenue as well as international welfare.[28] To avoid such a problem there reaches an international consensus to tax the worldwide (domestic and foreign) income of residents and the domestic income of non-residents.[29]

The concept of residence rule of taxation is dependent on the principle that people and firms should contribute towards the public services provided for them by the country where they live, and levied against their worldwide income.[30] A person is a resident of a country if the person has close personal and economic relations with that country, with the possibility to be a resident of one or more countries at the same time.[31] In defining the residence of individuals two major approaches are applied.

First, the physical presence test is based on the number of days a person spends in the country during the tax year (usually the 183 days or six-month period in the fiscal year), the 12-month period, or over a period of preceding years.[32] There is a variation among States in the

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[22] Ibid.
[23] Ibid.
[24] Ibid.
[25] Ibid.
[26] Ibid
[27] Ibid
[28] Ibid
[29] Reuven S. Avi-Yonah, International Tax as International Law: Analysis of an International Tax Law regime, Cambridge University Press (2007) pp.4-5.
[30] Source and Residence Taxation, Tax Justice Briefing (tax justice network,2005) p.1. <https://www.taxjustice.net/cms/upload/pdf/Source_and_residence_taxation_-_SEP-2005.pdf >
[31] Richard J. Vann, International Aspects of Income Tax, in Tax Law Design and Drafting(1996)2Victor Thuronyi (ed.), International Monetary Fund p.695.
[32] Roy Rohatgi, *Basic International Taxation: Principles of International Taxation*, Richmond Law & Tax Ltd., Second Ed.2005) Vol.1, p.200.

calculation of such a period, and the methods of calculation such as the actual days of physical presence or the duration of the activity.[33] The second approach to defining residence is the facts and circumstances approach where all facts are weighted (though no definitive circumstance) to determine residence.[34] These include considerations such as the center of vital interests, family ties, retention of a house or availability of living accommodation, the residence of the family, permanent home, habitual abode, personal or economic relations, etc. though variation exists among nations.[35]

To determine the residence of companies or legal entities various connecting factors are applied. The most common determinants are the place of incorporation or legal seat, and/or the location of management or real seat.[36] In this regard, tax residence based on the statutory seat is almost obvious, but there exist different perceptions and legal definitions for the location of management or real seat. Management can signify either the central management and control (which is the ultimate level of policy decision-making or supervision) or operational management (which denotes the day-to-day management or effective management) of the business.[37] Countries apply either of the dimensions of management.[38]

On the other hand, the concept of source rule of taxation is based on the view that the country which provides the opportunity to generate income or profit should have the right to tax.[39] In determining the income tax jurisdiction the source rule identifies the place where the income arises and the country which has a tax right over it.[40] That is based on the ability to identify income and its recipient, quantify it, and enforce its taxing rights.[41] Generally, the active business income follows the place of operations from which the income or profits arise while passive income is sourced in the country of the payer unless it is effectively connected with the business activity in the State.[42]

3.2. Income Tax Jurisdiction under FITP of Ethiopia

[33] Richard J. Vann, International Aspects of Income Tax, in Tax Law Design and Drafting (1996)2Victor Thuronyi (ed.), International Monetary Fund, p. 697-699.
[34] Roy Rohatgi, *supra* 31, p.200.
[35] Richard J. Vann, *supra* 33, p.696; Roy Rohatgi, *supra 31*, p.200-209.
[36] Ibid.
[37] Ibid.
[38] Ibid.
[39] Source and Residence Taxation, Tax Justice Briefing (tax justice network, 2005) <https://www.taxjustice.net/cms/upload/pdf/Source_and_residence_taxation_-_SEP-2005.pdf >
[40] Roy Rohatgi, *supra 31*, p.222.
[41] Ibid.
[42] Ibid.

The law-maker in Ethiopia and elsewhere in the world usually defines the scope of application of certain legislation. Such an act is important to properly understand the law and implement it in accordance with the intention of the lawmaker. In line with this, the FDRE Income Tax proclamation has tried to define its scope of application. Income itself has no fixed place – it can be anywhere and nowhere. There are two bases of jurisdiction: personal and source /territorial jurisdiction. Personal jurisdiction can be based on nationality (in very few countries) or residence (in most countries).

Ethiopian income tax jurisdiction was territorial prior to 2002 but has since then become residence-based. The current income tax proclamation put its scope of application clearly under art 7 of the proclamation. As per the provisions of the law, the income tax proclamation will apply in the two scenarios. First, the proclamation applies to residents of Ethiopia with respect to their worldwide income. Secondly, the proclamation applies to non-residents with respect to their Ethiopian source income. Hence, the income tax jurisdiction of Ethiopia has recognized two bases of jurisdiction; i.e. the personal and the territorial base jurisdiction. The proclamation clarifies the concept of residence by defining the factors to be considered in the determination of individual residence and corporate residence. So, as per the ITP, a resident of Ethiopia is a resident individual, a resident body, the government of the Federal Democratic Republic of Ethiopia, and any regional State or city government in Ethiopia.[43] In determining the individual residence the law puts two identifiers: physical presence and domicile. Yet, the proclamation does not define the term domicile in itself. However, the civil code of Ethiopia defines the domicile of a person as the place where a person established the principal seat of his business and of his interests, with the intention of living there permanently.[44] When the place of work is not the same as the place of family or social life the latter place is considered the place of domicile.[45] Unlike residence, no person can have more than one domicile at the same time, or the principle of unity of domicile applies.[46]

Physical presence requires evidence of the presence in a country for an aggregate of 183 days in a period of 12 calendar months. What does presence mean? Should the tax authority consider days of arrival and days of departure? Part of the day, weekends, national holidays? Days of transit? For which tax period is an individual considered a resident? For both tax periods in

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[43] Proc.No.979/2016, Article 5, sub article 1.

[44] Civil Code of Ethiopia, Proc.No.165/1960, *Negarit Gazetta,* (1960), Article 183 [Hereinafter Civil Code of Ethiopia).

[45] Civil Code of Ethiopia, Article 185.

[46] Civil Code of Ethiopia, Article 186.

which her presence falls? The regulation has come up with a clear answer in this regard. According to the regulations, departure day, holiday, leaves, etc. are considered in calculating the 183 presence days.

So, when an individual is present for more than 183 days or half a year in Ethiopia, either continuously or intermittently, in a tax year considered a resident individual.[47] With regard to the residence of legal entities, the place of incorporation or place of effective management is applicable same to the most common criterion. That is a resident body or company that is incorporated or formed in Ethiopia or its place of effective management is in Ethiopia.[48] It seems that these elements should be satisfied alternatively. This is because if we require these elements to be satisfied cumulatively, the purpose of the tax proclamation cannot be met. Legally speaking, the place where the artificial person got its personality is called a place of incorporation. Accordingly, that entity will be regarded as the resident of the State where the incorporation is hosted. Place of effective management – is probably the most substantial link for establishing a residence. According to Model Tax Treaties (e.g., OECD Model Tax Treaty), the place of effective management is the place where key management and commercial decisions that are necessary for the conduct of the entity‘s business as a whole are made in substance.

It all depends on the facts and circumstances of each case. All relevant facts and circumstances must be examined to determine the place of effective management. An entity may have more than one place of management, but it can have only one place of effective management at any given time.[49]

In international tax treaties, the place of effective management is often used as a tie-breaker in cases where a business organization is a resident of multiple countries. Registration (or incorporation) may make an entity a resident of multiple countries, but a place of effective management will make it a resident of only one. Determining the place of management would be difficult unless there is a specific rule as to the type of management and the frequency of management to be held in the country in question. The UN model takes the following circumstances into account when establishing the place of effective management; the place where a company is actually managed and controlled, the place where the decision-making at

[47] Proc.No.979/2016, Article 5(2-4).
[48] Proc.No.979/2016, Article 5(5, 6).
[49] OECD, commentaries on the articles of the model tax convention (2010) 88. <https://www.oecd.org/berlin/publikationen/43324465.pdf> accessed on June 2022.

the highest level on the important policies essential for the management of the company takes place, the place that plays a leading part in the management of a company from an economic and functional point of view and the place where the most important accounting books are kept.[50]

Concerning the source rule tax jurisdiction according to article 6 of the income tax proclamation, generally, the active business income operated in Ethiopia is considered as Ethiopia's source income. And with regard to passive income derived if the payer is in the country of Ethiopia, it is Ethiopian source income. In addition, passive income which is effectively connected with business activity in Ethiopia is also an Ethiopian source of income. The details of the source rule of jurisdiction are provided based on the income or profit type which is also discussed below. Any income which is not an Ethiopian source of income is a foreign income.[51]

3.2.1. Employment Income or Schedule 'A' income

It is an income of any kind received by the employee from the employer.[52] Employee means an individual engaged, whether on a temporary or permanent basis to perform services under the direction and control of the employer, who engages or remunerates the employee.[53] It includes salary, wages, an allowance, bonus, commission, gratuity, or other remuneration received by an employee in respect of past, present, or future employment, fringe benefits, severance payment, compensation, and golden handshake payment.[54]

In determining the income tax jurisdiction we should test the source and residence dichotomy in the employment income. Literature shows the income tax jurisdiction of employment income will be determined based on the source of income which is derived usually from a place where employment is carried out.[55] If such employment is carried out in several places, the income may be apportioned between those places.[56] In the same vein in Ethiopia, the income tax jurisdiction of employment income is determined based on the source of income. Accordingly,

[50] UN, articles of the United Nations model double taxation convention between developed and developing countries (2011)94<https://www.un.org/esa/ffd/wp content/uploads/2014/09/UN_Model_2011_Update.pdf> accessed on March 2022.
[51] Proc.No.979/2016, Article 6(5).
[52] Proc.No.979/2016, Articles 2 (9), 10, 12.
[53] Proc.No.979/2016, Article 2(7-7)
[54] Proc.No.979/2016, Article 12 (1 a-c).
[55] Richard J. Vann, *supra* 33, p.711.
[56] Ibid.

employment income derived by an employee shall be an Ethiopian income to extent that the employment is carried out in Ethiopia, wherever paid; or if it is paid to the employee by or on behalf of the government of Ethiopia, wherever the employment is carried out.[57]

3.2.2. Rental Income or Schedule B income

Rental income tax is imposed on persons who acquired income by renting a building or building annually.[58] In terms of income tax jurisdiction of rental income, it is based on the source of income.[59] If the income is derived from the rental of immovable located in Ethiopia is unconditionally under the income tax jurisdiction of Ethiopia.[60] And any income derived by the rental of movable located in Ethiopia is also an Ethiopian income tax jurisdiction.[61]

3.3.3. Business Income or Schedule C income

Business income includes the gross income derived by the taxpayer in the tax year from the conduct of business, a gain on the disposal of a business asset, and any other amount included in business income.[62] In determining the income tax jurisdiction over business income it is preferred to start from the concept of permanent establishment.[63] In Ethiopia, the same UN model convention and OECD model convention permanent establishment is treated as a fixed place of business through which the business of the person is wholly or partly conducted.[64] It includes a place of management, a branch office, a factory, a warehouse, a mine site, an oil or gas well, a quarry, and others.[65] With regard to the furnishing of services including consultancy services and a building site, a construction, assembly or installation project to be considered as a permanent establishment needs one hundred eighty-three days (183) continuance.[66] Both of the permanent establishment definitions, 'fixed place of business' and 'dependent agent acting on behalf of an enterprise' require some form of geographic and temporal presence within the source country.[67]

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[57] Proc.No.979/2016, Art 6(1).
[58] Id, Article 13 (1).
[59] Richard J. Vann, *supra* 33, p.703.
[60] Proc.No.979/2016, Article 6(4-b-1).
[61] Proc.No.979/2016, Article 6(4-b-2).
[62] Proc.No.979/2016, Article 4(4) cum. Article 21.
[63] Richard J. Vann, p.703.
[64] Proc.No.979/2016, Article 4.
[65] Proc.No.979/2016, Article 4 (2).
[66] Proc.No.979/2016, Article 4 (2-c, 3).
[67] Ertuğrul Akçaoğllf, International Taxation of Electronic Commerce: A Focus on the Permanent Establishment Concept, Yıl, (2002)150.

The permanent establishment is the concept to refer to active business operation in a given country and giving the source country the primary right to tax the profits from that operation.[68] This concept relieves a taxpayer from paying tax to the resident country on the income derived by the active business operations in another country, either through the tax exemption method or foreign tax credit method.[69] Where no permanent establishment exists within the source country, business profits derived from that country are subject to tax solely in the residence country.[70]

The source rule applies in determining the income tax jurisdiction of business income through association with the permanent establishment.[71] The same rule works in the income tax jurisdiction of Ethiopia. Business income derived by a resident of Ethiopia conducted in the permanent establishment of Ethiopia is considered an Ethiopian source of business income.[72] A business conducted, disposal of goods, merchandise of the same or similar kind, and any other business activity of the same or similar nature by a non-resident through a permanent establishment in Ethiopia is an Ethiopian source of income.[73]

3.2.4. Other Incomes or Schedule D Income

A. Taxation of Technical Fees

Under Articles 51 and 52 of the FITP a non-resident who derives an Ethiopian source (which manifestly though not exclusively applies a source rule) technical fee is subject to a 15 percent tax from the gross income.[74] In the case of technical services, modern methods for the delivery of services allow non-residents to perform substantial services for customers in the other country with little or no presence in that country. This ability to derive income from a country with little or no presence there, combined with concerns about the base-erosion and profit-

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[68] UN Model Double Tax Convention between Developed and Developing Countries, (2011) [Hereinafter UNDTC) articles 4, 5, 7; The U.S. Treasury Department United States Model Income Tax Convention, Articles 4, 5, 7 [Hereinafter U.S. Model Treaty]; OECD Model Tax Convention (2003) [Hereinafter OECD MTC], Articles. 4, 5, 7; Reuven S. Avi-Yonah, The Structure of International Taxation: A Proposal for Simplification (1996)74 Texas Law Review pp1301-1307.
[69]UNDTC, Article 3; OECD, Article 23.
[70] Ertuğrul Akçaoğllf, *supra* 67, p.130.
[71] Richard J. Vann, *supra* 33, p.703.
[72] Proc.No.979/2016, Article 6 (2).
[73] Proc.No.979/2016, Article 6 (3).
[74] Proc.No.979/2016, Article 2(23). Technical fee is legally defined as “a fee for technical, professional, or consultancy service, including the fee for provision of services of technical or other personnel”.

shifting aspects of technical services, justify the absence of any threshold requirement as a condition for a country to tax fees for technical services.

Taxation of technical fees sourced in Ethiopia is not taken for granted rather it is dependent on the fulfillment of certain conditions.[75] That is the technical service supplier has to be non-resident and not through the permanent establishment in Ethiopia, and the technical service recipient has to be a resident of Ethiopia (other than in relation to the business conducted by the resident through the permanent establishment outside of Ethiopia) or a non-resident through the permanent establishment in Ethiopia.[76] In addition, the technical fee payment to the non-resident service supplier has to be made by the related person to the recipient or recharged by the related person to the recipient.[77] The law expressed the payer of the technical service to be only the related person of the technical service recipient, who is a resident of Ethiopia or non-resident through the permanent establishment in Ethiopia. But, for a stronger reason, the payer can be the technical service recipient under this provision. It should be taken into account that technical service recipient in Ethiopia is privileged since the payment for the technical service is deductible and hence erodes the tax base of Ethiopia. The law emphasizes a related person as a payer of a technical fee to avoid any tax base erosion. Consequently, Ethiopia is entitled to tax fees or payments for technical services performed in Ethiopia if the payer wherever located is related to the technical fee recipient in Ethiopia. In many cases, such closely-related party services present the most serious risk of eroding a country's tax base. If these conditions are not met, no (withholding) tax[78] is due.

FITP allows fees for technical services to be taxed on a gross basis. Many developing countries have limited administrative capacity and need a simple, reliable, and efficient method to enforce tax imposed on income from services derived by non-residents. A withholding tax imposed on the gross amount of payments made by residents of a country, non-residents with a permanent establishment or fixed base in a country, or a related person is well established as an effective method of collecting the tax imposed on non-residents. Such a method of taxation may also simplify compliance for enterprises providing services in Ethiopia since they would not be required to compute their net profits or file tax returns.

[75] Proc.No.979/2016, Article 52.
[76] Ibid.
[77] Ibid.
[78] Proc.No.979/2016, Article 64(5).

However, to levy a 15 percent fixed tax over the gross income of the technical service based on the FITP such technical fee accrued or arose has no attribution to "business carried on by the non-resident through the permanent establishment in Ethiopia".[79] If such attribution occurs the technical fee gained from Ethiopia is a business income, which will be taxed as business profit tax under schedule C or the repatriated profit tax under Schedule D as the case may be.[80] The taxability of the technical fee derived from Ethiopia, once assumed it constitutes business profit, will depend on whether or not the beneficiary is deemed to "business carried on by the non-resident through the permanent establishment in Ethiopia".

B. Dividends, Interest, and Royalties

Tax treaties based on OECD or U.S. Models strictly limit the taxes imposed by the source country on passive income (such as income from dividends, interest, and royalties), leaving the primary right to tax that income to the residence country.[81] Dividends are usually sourced under domestic law, and tax treaties by the residents of the company paying them.[82] In Ethiopia also dividends are determined based on source and a dividend paid to a person by an Ethiopian resident is considered an Ethiopian income tax jurisdiction.[83]

Interest under tax treaties also uses a basic residence of the payer criterion, but where the interest is borne by the permanent establishment in connection with which the indebtedness is incurred, the interest is sourced by the location of the permanent establishment.[84] Taken together, these rules on interest mean effectively that it is the place where the economic activity giving rise to the payment of the interest occurs that is its source.[85] Interest source rules under domestic laws show some variation from this pattern, most commonly adding the case where the interest relates to a loan that is secured by property situated in the country, but tax treaties generally override this rule.[86] In relation to this, in Ethiopia, the source rule applies in determining the income tax jurisdiction of interest as income. That is an interest paid to by the

[79] Proc.No.979/2016Article 51(2).
[80] Proc.No.979/2016Article 51(2), 62.
[81] OECD MTC, Articles. 10-12; U.S. Model Treaty, Articles 10-12; UN Model Treaty, Articles. 10-12.
[82] Richard J. Vann, *supra* 33, p.706.
[83] Proc.No.979/2016, Article 6 (4-a).
[84] Richard J. Vann, *supra* 33, p.706.
[85] Ibid.
[86] Ibid.

resident of Ethiopia or by non-resident as expenditure of business conducted under the permanent establishment within Ethiopia is considered as Ethiopian source income.[87]

With regard to royalties, they replicate the interest source rule for royalties, that is, the residence of the payer with the permanent establishment qualification.[88] In Ethiopia also concerning royalties the same rule to the interest applies.[89]

C. Gains and Others

Gains from the disposal of immovable assets situated in Ethiopia and a membership interest in a body if more than 50 percent value of such interest is derived from immovable in Ethiopia are within the income tax jurisdiction of Ethiopia.[90] In addition, gains from the disposal of shares in, or bonds issued by, the resident company are treated as the source income of Ethiopia.[91]

Insurance premium relating to the insurance of risk in Ethiopia is the source income of in Ethiopia.[92] Income from games of chance, sporting events, or performances held in Ethiopia is also Ethiopia's source of income.[93]

4. Examining the FITP of Ethiopia in Light of the Doctrines of Taxation

As stated in section two of this Article, countries do not design their tax laws capriciously; they have instead designed tax jurisdiction rules based on defined nexus with the income or the person who obtained an income. In this section, the Authors evaluated the FITP of Ethiopia in light of the doctrines of taxation.

4.1. The Place of Economic Allegiance Doctrine under FITP

As noted before, the rules of the income tax are designed with certain theories or justifications of taxation. In terms of jurisdiction, the Ethiopian income tax law follows both the residence principle and the source principle. Generally, the income tax proclamation does adopt these principles in consideration of nexus with the country. Unless the income is derived from Ethiopia or the person is connected with Ethiopia, the government would not tax an income.

[87] Proc.No.979/2016, Article 6(4-g).
[88] Richard J. Vann, *supra* 33, p.707.
[89] Proc.No.979/2016, Article 6 (4-g).
[90] Proc.No.979/2016, Article, 6(4-c(1-2)).
[91] Proc.No.979/2016, Article 6(4-c(3)).
[92] Proc.No.979/2016, Article 6(4-d).
[93] Proc.No.979/2016, Article 6(4-e-f).

Here, one may wonder why the law considers these principles as a base for taxing right. Without prejudice to other theories of taxation, the tax jurisdiction principles have relied on economic allegiance theories of taxation. The income tax proclamation based itself on the resident principle which is, among others, justified by economic allegiance arguments, specifically, that taxation is a means of financing public goods.[94] By the same token, the source-based principle of the income tax proclamation is justified by the economic allegiance arguments, specifically; in making up the income the country has its own contribution.

Having said this much about the relationship between the income tax principles in relation to the theories, it has paramount importance to examine the character of the income tax rules in light of the theories of taxation.

In assuming tax jurisdiction on employment income, a person (worker), who generates income from a rendering of technical service, will be the subject of Schedule 'A' only where the provision of the service is conducted in Ethiopia or the income is paid by the Ethiopian government or on behalf of the Ethiopian government.[95] This specific taxing right of employment income, among others, could be justified by the economic nexus argument. Because, as noted above, when a person has been undertaking employment activity in Ethiopia, in one way or another the person will consume the public goods and services provided by the Ethiopian government. However, the second index of employment income source rule could be justified by the sovereignty doctrine.

When we see rental income, the taxing rights occur only where the property is situated in Ethiopia. The situation of the property is a connecting factor to claiming tax by the Ethiopian government. Understandably, this rule has based itself, among others, on economic rationales. A person to drive rental income the property must be leased. Thus, in order to derive a rental income, the property has to be existed in safe. And, for the proper existence of the property, law and order as well as national security are important. The State has a contribution to the creation of that particular rental income. Moreover, the existences of infrastructure are critical in leasing property. Hence, the contribution of the State in this regard is also vital. Therefore, the rental income tax jurisdiction rule of ITP relies on the economic allegiance doctrine of taxation.

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[94] Omri Marian, Jurisdiction to Tax Corporations (2013), 54 B.C. L. Rev. 1613, <http://scholarship.law.ufl.edu/facultypub/359 >

[95] Proc.No.979/2016, Article 6.

Non-residents are required to pay tax under the schedule of *business income* if and only if they have generated income through a permanent establishment.[96] As indicated under different pieces of literature, the most important and obvious effect, both from legal and practical viewpoints, is that the permanent establishment principle under tax treaties is decisive in determining a non-resident enterprise's tax obligation due to business activities with economic allegiance to more than one country – through a branch office, representative, project office or even the simple signing of a contract.

As far as Schedule D is concerned, the hubs for tax jurisdiction are diverse depending on the type of income. Both residents and non-residents could be taxed under schedule. As regulated under Art 6 of the ITP, non-residents without permanent establishment are required to pay tax on the interest, a royalty, management fee, technical fee, or other income if the following pivots have occurred cumulatively. First, if the income is paid to the person by a resident or non-resident with the permanent establishment for its business operating in Ethiopia; and secondly, if the income, paid to the non-resident person, is regarded as expenditure of the payer in relation to its business in Ethiopia. The rationale for the taxation of these non-resident persons is largely economic allegiance. From the tax jurisdiction rules stated above, it is possible to understand that economic nexus has been considered as a justification for taxation. The law for example the interest must be paid for the business operating in Ethiopia. From the rationale of exclusion of interest paid to businesses outside Ethiopia, it is possible to understand that the reason for the claim of taxation is an economic connection. As long as the business is operating in Ethiopia by consuming public goods and national security, the person who derives from such business needs to pay a tax to the Ethiopian government. Unless the Ethiopian government provides public goods, the business will not function and the interest income would not occur. Thus, there is an economic connection between the Ethiopian government and the non-resident person who derives the income.

4.2. The Place of Realistic Doctrine under FITP

As noted above, the realistic doctrine, due to its very nature, connotes pragmatism and may be best understood on that basis. Since the doctrine is based on the actual competence of the State to collect taxes, source taxation of non-residents needs some qualifications in the design of jurisdiction rules. In formulating the circumstances in which a State will tax when confronted with a foreign element the State is not concerned with the question of whether or not it should

[96] Proc.No.979/2016, Article 6(3)

exercise fiscal jurisdiction it in fact assumes that. Operating from this premise it is concerned with exercising its jurisdiction in an effective manner. While collection from local enterprises is not problematic, collection of tax from non-resident persons without permanent establishment is not easy. Given that States do not, in general, enforce each other's fiscal assertions or judgments, under the realistic doctrine the taxation of non-residents (who have no physical presence or readily accessible assets in the taxing State) often relies on withholding tax. In this regard, when we see ITP unless non-residents have a permanent establishment in Ethiopia, they are taxed through a withholding scheme. When a non-resident person without permanent establishment derives income in Ethiopia the tax shall be paid by the payer of the income.[97] Accordingly, under the FITP, interest, a royalty, management fee, technical fee, or other income is subject to tax via withholding schemes which essentially rely on the realistic doctrine of taxation. And, as can be understood from the reading of Article 6 of the FITP, the reference point for the assumption of tax jurisdiction over an interest, a royalty, management fee, technical fee, or other income should be the payer of the income. Hence, in this respect, it is possible to contend that the ITP considers the realistic doctrine in the design of the jurisdiction rules in respect of taxing non-resident persons (who have no physical presence or readily accessible assets in the taxing State) derived income from Ethiopia's territory.

4.3. The Place of Sovereignty Doctrine under FITP

As clearly discussed above the doctrine of sovereignty lays income tax jurisdiction over nationals or residents over their worldwide income (i.e. national sovereignty) and to non-residents where the source of income is within the country's geographical territory (i.e. territorial jurisdiction). This underlines the sovereignty doctrine applies both to the residence and source rule of income tax jurisdiction. Both the source and residence rules of taxation are recognized under the income tax proclamation of Ethiopia. Hence, it is possible to assert that the country recognizes these principles, among others, based on the doctrine of sovereignty. Because, while the assumption of tax power over its residents is justified by national sovereignty, the assumption of tax power over non-residents, by reference to the geographical boundaries of a State, is based on territorial sovereignty.

The above discussion can be explained in the following illustrations. First, employment income tax jurisdiction is based on the source rule of taxation under FITP. The income tax proclamation stipulates employment income derived by an employee shall be an Ethiopian income to extent

[97] Proc.No.979/2016, Articles 6, 51.

that the employment is carried out in Ethiopia, wherever paid; or if it is paid to the employee by or on behalf of the government of Ethiopia, wherever the employment is carried out.[98] In this provision, we can evidence the sovereignty doctrine of both national sovereignty and territorial sovereignty has existed. That is for all income derived in the territory of Ethiopia by whoever performed and wherever paid. In addition, for any work performed wherever the payer is the government of Ethiopia or paid on its behalf, it is also the Ethiopian source of income since the budget for such payment is deducted from the Ethiopian government. In addition, if one considers the income from the rental of buildings, based on source rule the tax jurisdiction is exclusive to a nation where such immovables (houses or other buildings) are located. The same is true under the income tax proclamation of Ethiopia in which income derived from the rental of immovable located in Ethiopia is unconditionally under the income tax jurisdiction of Ethiopia.[99] And any income derived by the rental of movable located in Ethiopia is also an Ethiopian income tax jurisdiction.[100] This is by the mere fact that the source of income is derived in the territorial jurisdiction of Ethiopia and the sovereignty doctrine is incorporated under the income tax proclamation of Ethiopia. Moreover, as it is most commonly used the income tax jurisdiction of Ethiopia applies to residents towards their worldwide income.[101] When we examine it with theories of income tax jurisdiction it meets with the sovereignty doctrine in its national sovereignty type. This signifies the principle of ability to pay which should be assessed based on a taxpayer's comprehensive income.

As a fourth example would taxation jurisdiction be different concerning the business income generated in Ethiopia or by Ethiopians wherever they derive it? According to the FITP, business income derived by an Ethiopian resident is considered an Ethiopian source of income unless it is attributable to a business conducted by the resident through a permanent establishment outside Ethiopia.[102] Under this first situation, the nationality jurisdiction over a person is exemplified, which is a legal connection (such as domicile or incorporation). In addition, income derived from businesses conducted, disposal of goods, merchandise of the same or similar kind, and any other business activity of the same or similar nature by a non-resident through a permanent establishment in Ethiopia, is an Ethiopian source of income.[103] Under this second situation, even if a person is not a resident of Ethiopia, Ethiopia has territorial

[98] Proc.No.979/2016, Article 6(1).
[99] Proc.No.979/2016, Article 6(4-b-1).
[100] Proc.No.979/2016, Article 6(4-b-2).
[101] Proc.No.979/2016, Article 7.
[102] Proc.No.979/2016, Article 6 (2).
[103] Proc.No.979/2016, Article 6 (3).

jurisdiction over income derived within its territory earned by a resident of another country. In this case, the territorial jurisdiction over a person is exemplified, which is a factual connection (i.e. whether a person is actually resident in Ethiopia and the income is not attributed to that person's permanent establishment abroad). This is sometimes referred to as source jurisdiction because the source of income is in Ethiopia. A territorial connection justifies the exercise of taxing jurisdiction because the taxpayer is expected to share the costs of running a country which makes possible the production of income, its maintenance and investment, and its use through consumption.

Taxation of income based on territorial jurisdiction takes one of two forms. A country typically asserts full jurisdiction over business profits generated within that country by a non-resident, taxing those profits earned in the same manner as if earned by a resident of that country because it has a more significant connection.[104] In this case, expenses associated with generating such income are normally deductible. On the other hand, non-business, investment income, such as dividends, interest, royalties, and rent, typically is subject to limited jurisdiction because the only connection may be the payer's residence.[105] Such income is taxed by a country in which a payer resides on a gross basis with a lower rate than business income. This finds true under the FITP of Ethiopia where business income by resident and non-resident of Ethiopia, in its Ethiopian source income is taxable at a 30 percent flat rate for a body and up to 35 percent for individuals[106] while investment income like interest, royalties, dividends, and rent is taxable at a lower rate which ranges between 5 percent to 15 percent.[107]

Based on the above examples, one could say that income sourced to a certain jurisdiction is geographically located in that jurisdiction in much the same way as an individual can be geographically located in a jurisdiction for purposes of applying a residency rule.[108] Similarly, one would err by asserting that taxpayers and incomes bear the same sorts of characteristics, as in the claim that taxpayers and income both have a geographic location.[109]

4.4. The Place of Benefit Doctrine under FITP

[104] Richard L. Doernberg, International Taxation, Nutshell series, West Group Publishing Co.5th ed., (2001)10.
[105] Ibid.
[106] Proc.No.979/2016, Article 19.
[107] Proc.No.979/2016, Articles, 51, 54-56, 58.
[108] Mitchell A. Kanet, A Defense of Source Rules in International Taxation (2015)32Yale Journal on Regulation 314.
[109] Kerrie Sadiq, Jurisdiction to Tax and the Case for Threshold Reform (2005) 1,2, Journal of the Australasian Tax Teachers Association 165; Victor Zonana, Introduction: International Tax Policy in the New Millennium: Developing an Agenda, (2001)26 Brooklyn Journal of International Law 1253–54.

The basic tent of this doctrine is if the person uses public goods and services in generating income, the given State can naturally levy tax on such person. These public goods and services include infrastructures like roads or other buildings and security services. Whether this benefit doctrine is incorporated under the income tax proclamation of Ethiopia is worthy of discussion. The benefit doctrine is realized under the residence and source rule of income tax jurisdiction both to residents towards their worldwide income, and non-residents towards their Ethiopian source income. The benefits principle States that the residence jurisdiction has the primary right to tax passive (investment) income, whereas the source jurisdiction has the primary right to tax active (business) income.[110] The residence rule provides unrestricted taxation rights to the country of residence, due to the "personal attachment" of persons.[111] The country of residence (or nationality) may impose its taxes on the worldwide income of individuals or corporations due to the protection it offers to the tax subject.[112]

On the other hand, the source rule is based on providing restricted taxation rights to the countries of the source due to the "economic attachment" of persons.[113] In relation to this, the country of source reserves the right to tax the income that is derived from the economic activities within its territory. That is the non-resident is taxed in the country of the source to the benefits it received in deriving income. For example, a non-resident who invests in or carries on a United States business profits from United States government activities that create and foster general public safety, national security, a fair legal system, a transparent and safe financial infrastructure, a healthy and educated workforce, transportation and communication infrastructure, legal protection of intellectual property licensed or sold in the United States by the non-resident, and redistributive assistance to the poor that contributes to a stable social order.[114] The permanent establishment is the concept to refer to active business operation in a given country and giving the source country the primary right to tax the profits from that operation.[115] This source rule implicitly considers the benefit theory of income taxation.

[110] Reuven S. Avi-Yonah, The Structure of International Taxation: A Proposal for Simplification (1996)74 Texas Law Review 11.
[111] Roy Rohatgi, *supra 31*, p.15.
[112] Ibid.
[113] Ibid.
[114] Stephen E. Shay et al., The David R. Tillinghast Lecture "What's Source Got to Do With It?" Source Rules and U.S.(2002)56 International Taxation, Tax Law Review 90.
[115] UN and OECD Model Treaties, Articles 4,5,7; Reuven S. Avi-Yonah, The Structure of International Taxation: A Proposal for Simplification (1996)74 Texas Law Review pp.1301, 1307; Ertuğrul Akçaoğllf, International Taxation of Electronic Commerce: A Focus on the Permanent Establishment Concept, Yıl, (2002)130.

In Ethiopia, an income from business conducted, disposal of goods, merchandise of the same or similar kind, and any other business activity of the same or similar nature by a non-resident through a permanent establishment in Ethiopia, is an Ethiopian source of income tax jurisdiction.[116] This income type can be an example of incorporation and application of the benefits theory of income taxation under the income tax proclamation of Ethiopia. It is because though not explicitly mentioned under the proclamation literature shows the benefits principle applies in determining the extent and jurisdiction of income tax. Taxing non-residents is important to preserve the perceived legitimacy of residence-based taxation of similar activities carried out by Ethiopian residents. Simon argued that the existence of the corporate income tax should be justified by the benefit-based view of taxation (which is normally fair or fits with the fairness principle of taxation) and firms should pay tax according to the benefits they receive from the use of the public input.[117] Additionally, let us pick one topical example in relation to this, i.e. taxing technical fees. FITP levies tax on payment for technical services performed in Ethiopia.[118] The benefit theory of taxation is implicitly applicable to this tax (tax on payment for technical service) since the service recipient or the payer or the tax withholding agent is a resident of Ethiopia or non-resident through the permanent establishment in Ethiopia. This can be an enterprise that maintains a significant economic presence in Ethiopia, having any fixed place of business in Ethiopia or being present in Ethiopia for any substantial period. And these persons in one or another way use the public services in Ethiopia which is based on the justification for the benefit theory of taxation.

It has to be noticed that the geographical sovereignty doctrine is applicable in determining the tax jurisdiction of an Ethiopian source of business income. These source-based or benefits-based tax claims seem to conflict with modern notions that income tax should be progressive, thereby reflecting an ability-to-pay principle rather than a benefits principle.[119] However, critics show that benefits-based justifications for income taxes have largely been rejected.[120] Additionally, any net basis income tax assessed on a source basis will do a very poor job of

[116] Proc.No.979/2016, Article 6(3).
[117] Simon M Naitram, Optimal Benefit-Based Corporate Income Tax, Proceedings. Annual Conference on Taxation and Minutes of the Annual Meeting of the National Tax Association, National Tax Association, 2019)112.<https://www.jstor.org/stable/27067518 >
[118] Proc.No.979/2016, Article 51, 52.
[119] Mitchell A. Kanet, A Defense of Source Rules in International Taxation (2015)32 Yale Journal on Regulation 315.
[120] Ibid.

actually reflecting the magnitude of benefits accorded to the taxpayer by a particular jurisdiction.[121]

5. Conclusion

States assume tax jurisdiction with definite rationales and design the income tax jurisdiction rules in consideration of these doctrines/rationales of the taxing power. Commonly, the doctrines of taxation include sovereignty doctrine, benefit doctrine, economic allegiance doctrine, and realistic doctrine. These doctrines or theories help to justify the taxation power of a given State. These days, countries in the world adopt the residence and/or source rule of income tax jurisdiction. In the same fashion, Ethiopia incorporates the residence and source rule of income tax jurisdiction as a basis for levying and collecting income tax as provided under Ethiopia's federal income tax proclamation No.979/2016. According to this law, Ethiopia has worldwide jurisdiction over residents and source jurisdiction over non-residents.

A depth investigation of the federal income tax proclamation of Ethiopia shows that the four doctrines of taxation are considered in one or another way in the design of the tax jurisdiction rules of the country. As can be understood from the income tax proclamation, the tax jurisdiction rules in the taxation of income from employment and business income are mainly designed based on the sovereignty doctrine generally and personality/national sovereignty in particular. Apart from the sovereignty doctrine the law also considers, employment and business income taxes, economic allegiance, and benefit doctrines. Moreover, in the jurisdiction rules of taxation of rental income, business income, and others' incomes (Schedule D) the law base itself on the sovereignty doctrine generally and the territorial sovereignty in particular. doctrine is exemplified. Besides, the law has also considered the doctrine of economic allegiance and the benefits doctrine in the taxation of rental income, business income, and other income as the country will have to contribute to the creation of the income obtained in the Ethiopian territory or through the use of the services provided by the country. Furthermore, for income derived by non-residents taxing on the basis of withholding income tax, the law considers the doctrine realistic in view of tax administration. Since the government cannot access non-residents without permanent establishment service providers, the law uses withholding as a method of tax collection. Hence, the realistic doctrine is considered in the design of withholding taxation. Thus, by and large, the Authors conclude that the doctrines of

[121] Robert A. Green, The Future of Source-Based Taxation of the Income of Multinational Enterprises (1993)79 Cornell Law Review29.

taxation which are considered an index of a good tax system are envisaged under the FITP in designing the income tax jurisdiction of Ethiopia.