

## **Chiara Francioso**

Chiara Francioso is a first-year Ph.D. student in Law (curriculum of Tax Law) at the University of Milano-Bicocca. Her research interests include fiscal integration in the European Union, tax proceedings and treatment of losses in the income tax system. Chiara holds a five-year master's Degree in Law (summa cum laude) (Oct. 2016) from the University of Modena and Reggio Emilia, where she was awarded for outstanding academic achievement, and an LL.M. in Taxation from the European School of Advanced Fiscal Studies (University of Bologna, Oct. 2017).

She has previously researched and published in the area of income taxation and of tax litigation (e.g. FRANCIOSO C. (2016), L utilizzo transfrontaliero delle perdite infragruppo: evoluzione dell'orientamento della Corte di Giustizia dalla sentenza Marks & Spencer al chiarimento del concetto di final losses, *Diritto e pratica tributaria internazionale*, vol. 4, 1498; FRANCIOSO C. (2017), Conseguenze dell omessa riassunzione a seguito di cassazione con rinvio, *Giurisprudenza italiana*, vol. 4, 857; FRANCIOSO C. (2018), Efficacia esecutiva delle sentenze tributarie non definitive rispetto al ruolo straordinario, *Giurisprudenza italiana*, vol. 1).

Chiara is a trainee lawyer specializing in tax litigation and a lecturer in seminar activities at the University of Modena and Reggio Emilia (e.g. Seminar "Taxation and Economics in the European Framework", Jun. 2017). Formerly, she was a member of the Council of Welfare of the University of Modena and Reggio Emilia and a representative of the student body.

**THE DEBATE ON TAX RULINGS IN THE EUROPEAN UNION**  
**Addressing the Downside of a Means of Tax Compliance in the EU Single Market**

*Tax rulings are legal instruments that allow the taxpayer to obtain a more or less binding statement from the tax administration concerning the treatment of a transaction or a series of contemplated future actions or transactions. A written statement, issued by tax authorities, that interprets and applies the tax law to a specific set of facts provides the taxpayer with the legal certainty that is needed to carry out cross-border transactions or complex investments, thus promoting a simplified tax compliance by preventing tax disputes from arising. Despite all the advantages well known in literature and acknowledged by national and international institutions, tax rulings may facilitate or even incentivize aggressive tax planning and international tax arbitrage: for instance, individual derogatory rulings which offer a low level of taxation in one Member State can encourage companies to artificially shift profits there, distorting competition within EU's single market and leading to serious revenue losses for other Member States. On the one hand, the OECD and the EU have been promoting a transparency policy, which requires national tax authorities to implement the automatic exchange of information on taxpayer-specific rulings. On the other hand, the European Commission has been reviewing over 1,000 rulings across the EU from the perspective of State aid rules: the inquiry led to the opening of formal State aid investigations – that received extensive media coverage – with regard to rulings granting a selective advantage to specific economic operators. The proposed research aims to present the opposing positions in the current debate on tax rulings' policy in the EU and to address the concerns arising from the investigations on rulings issued to well-known multinational groups – most recently Inter Ikea – with regard to the tax procedure governing the national ruling systems and the legal certainty of transactions within the single market. Indeed, EU State aid framework is not meant to be a substitute for proper anti-tax avoidance legislation nor should it be used to achieve harmonization of corporate tax legislations in the EU. Furthermore the (retroactive) recovery of unlawful State aids that may follow is undermining that same legal certainty that national tax authorities attempt to achieve through the issuance of tax rulings. The current contribution suggests to reserve the use of the State aid framework to the most blatant cases of violations, while implementing measures that appear to be more appropriate to counter – both procedurally and substantively – tax arbitrage within the EU single market (i.e. establishing common standards and best practices for the national ruling systems; identifying the recommended structure of the tax offices issuing the rulings; under certain conditions, granting their publication; executing on a national level the hybrid mismatches provisions; introducing the CCCTB).*