Part I

The Problem
Chapter One

Independence of International Civil Servants

The first factor that contributes to the need for special consideration of the fiscal status of employees of international organizations emanates from the fact that international civil servants should be able to perform their functions without any form of legislative, executive or judicial interference by any State. Exposure of international civil servants to the national jurisdiction of any country, including the tax jurisdiction, is believed to compromise this independence. As will be seen, the nature of the functions of the international civil servant is not comparable with that of a diplomat and therefore calls for a separate set of principles and rules concerning their tax treatment.

1.1. International civil servants as distinct subjects of international law

Previously – that is before Jeremy Bentham’s work provoked a new denomination\(^1\) – international law was known as the “law of nations” (‘droit des gens’, ‘völkerrecht’, ‘volkenrecht’, ‘derecho de naciones’), which was reflective of the origins in the seventeenth century when nations formally started to be transformed into separate and juxta-positioned legal orders which became to be called sovereign States, and the consequent development of an ensemble of legal norms governing exclusively the relations amongst those sovereign States.\(^2\) During the twentieth century international law, it is generally agreed,

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\(^1\) J. Bentham, An introduction to the principles of morals and legislation (Oxford, 1779/1879); Not until the 1802 French translation of this work that the expression “Droit International Public” became commonly used.