Part One
Introduction

Chapter 1: VAT groups of companies: a glance from the policy perspective
  1.1. General remarks
  1.2. VAT policy rationale for VAT grouping
  1.3. Forms of VAT grouping from a VAT policy perspective

Part Two
VAT grouping in the European VAT Directive

Chapter 2: History of EU VAT grouping
  2.1. EU VAT grouping: A European notion with German roots
  2.2. VAT grouping and its tracks in EU legislative history

Chapter 3: Personal scope of VAT grouping
  3.1. The Commission’s opinion
  3.2. Personal scope in Member States’ domestic VAT legislation
  3.3. Interpretation of the VAT grouping’s personal scope
    3.3.1. Literature review
    3.3.2. ECJ’s case law and its interpretation
      3.3.2.1. General remarks
      3.3.2.2. Grammatical interpretation
      3.3.2.3. Historical aspects
      3.3.2.4. Context and intention of Art. 11 VAT Directive as well as consequences of non-taxable persons joining a VAT group
    3.3.3. Non-taxable persons may join a VAT group
  3.4. Limitations to VAT grouping
    3.4.1. Limitations to options from a general VAT perspective
    3.4.2. A parallel to the ECJ’s case law in direct taxation and the fundamental freedoms
    3.4.3. Limitations to VAT grouping as a state aid problem
      3.4.3.1. General remarks
      3.4.3.2. Intervention by the State or through state resources
      3.4.3.3. Favourable treatment and selectivity
      3.4.3.4. Adverse effect on trade
      3.4.3.5. Procedural issues
  3.5. Conclusion

Chapter 4: Territorial scope of VAT grouping
  4.1. Status quo and general remarks
  4.2. Compatibility of the VAT grouping’s territorial scope with the fundamental freedoms
    4.2.1. Affected fundamental freedom(s)
    4.2.2. Restriction of the fundamental freedoms
      4.2.2.1. A question of comparability
      4.2.2.2. Comparability Pair 1: Domestic VAT group vs. cross-border parent-subsidiary treatment
      4.2.2.3. Comparability Pair 2: Cross-border headquarters-fixed establishment vs. cross-border parent-subsidiary
4.2.2.4. Interim result: The territorial scope restricts the fundamental freedoms

4.2.3. Justification(s)

4.2.3.1. General remarks
4.2.3.2. Tax avoidance and tax evasion
4.2.3.3. Harmonisation and the fiscal sovereignty of the Member States
4.2.3.4. Effectiveness of fiscal supervision
4.2.3.4. Principle of territoriality

4.2.4. Proportionality

4.2.4.1. General remarks
4.2.4.2. Causal link between means and the end
4.2.4.3. Is there a least restrictive measure that could fulfil the objective of cross-border VAT groups?
4.2.4.4. Interim conclusion: Least burdensome measure to a territorial restriction is the taxation of intra-group transactions

4.2.5. Conclusion

4.3. Compatibility of the territorial scope with the principle of neutrality

4.3.1. Neutrality as the pillar of the EU VAT system
4.3.2. VAT grouping and neutrality of input tax recovery
4.3.3. VAT grouping and comparative neutrality
4.3.4. Conclusion

Chapter 5: Substantive scope of VAT grouping

5.1. General remarks

5.2. Financial link

5.2.1. The Commission’s view
5.2.2. Examination of rules found in Member States having exercised the option to introduce a VAT grouping regime
5.2.3. Interpretation of the financial link

5.2.3.1. Case law related to VAT grouping
5.2.3.2. Case law regarding the differentiation between the fundamental freedoms
5.2.3.3. Other EU legislation
5.2.3.4. Current trends in the harmonisation process in the area of direct taxation

5.2.4. Conclusion

5.3. Economic link

5.3.1. The Commission’s view
5.4.2. Economic links in Member States’ legislation and case law

5.4.2.1. Austria
5.4.2.2. Germany
5.4.2.3. Selected other Member States

5.4.3. Conclusions

5.4. Organisational link

5.4.1. The Commission’s view
5.4.2 Organisational links in Member States’ legislation and case law

5.4.2.1. Austria
5.4.2.2. Germany
5.4.2.3. Selected other Member States

5.4.2.4. Conclusions

5.5. Conclusion
Chapter 6: Formal scope of VAT grouping

6.1. General remarks
6.2. Legal quality of the consultation process
6.3. Consequences of non-consultation

Part Three
Consequences of VAT grouping

Chapter 7: Mandatory or optional application

7.1. General remarks
7.2. Literature review
7.3. Own interpretation
7.4. Conclusion

Chapter 8: VAT group as separate taxable entity

Chapter 9: Intra-group supplies of goods and services

9.1. General remarks
9.2. Cross-border intra-group supplies
9.2.1. The Commission’s view: A domestic VAT group with a foreign fixed establishment
9.2.2. Own interpretation
9.2.3. Application to cross-border intra-group transactions
9.2.3.1. General remarks
9.2.3.2. Cross-border intra-group transaction between two Member States having exercised the VAT grouping option
9.2.3.3. Cross-border intra-VAT group transactions between a Member State having exercised the VAT group option and another Member State not having exercised the VAT group option

Chapter 10: Rights and obligations

10.1. Tax return: A proposed consolidation regime
10.2. Liability
10.2.1. General remarks
10.2.2. Joint liability in the light of the VAT Directive
10.2.3. Joint liability of VAT group members in selected Member States
10.2.3.1. Germany
10.2.3.2. Austria
10.2.3.3. Other Member States
10.3. Place of supply
10.3.1. General remarks
10.3.1.1. The need for proxies in VAT legislation
10.3.1.2. Place of supply of goods
10.3.1.3. Place of supply of services
10.3.1.4. Deemed intra-Union acquisition and intra-Union supply of goods and services
10.3.2. Place of supply and fixed establishments
10.3.2.1. General remarks
10.3.2.2. The notion of fixed establishments
10.3.2.3. Implications for cross-border VAT groups
10.3.2.4. Force of attraction of fixed establishments
10.4. Right to deduct input taxes
   10.4.1. General remarks
   10.4.2. Domestic VAT groups and the deduction of input taxes
   10.4.3. Cross-border VAT grouping and the deduction of input taxes
      10.4.3.1. Deduction or VAT refund?
      10.4.3.2. Issues connected to the input tax deduction and cross-border VAT groups
   10.4.4. Full, partial or no deduction of input taxes
      10.4.4.1. General remarks
      10.4.4.2. Full or no deduction? A question of the link!
      10.4.4.3. Partial deduction

Part Four
Interaction between VAT grouping and the exemption of cost-sharing arrangements

Chapter 11: VAT grouping vs the exemption of cost-sharing arrangements
   11.2. Personal scope
      11.2.1. Independent group of persons
      11.2.2. Members
   11.3. Direct necessity of services supplied
   11.4. Cost reimbursement
   11.5. Distortion of competition
   11.6. Interaction and coherence with VAT grouping
      11.6.1. Similarities and differences
      11.6.2. Interaction of VAT groups and cost-sharing arrangements
   11.7. Conclusion

Part Five
Conclusions

Chapter 12: Conclusions
   12.1. General remarks
   12.2. Personal scope
   12.3. Territorial scope
   12.4. Substantive scope
   12.5. Formal scope
   12.6. Consequences of VAT grouping
   12.7. Rights and obligations
      12.7.1. Liability
      12.7.2. Place of supply
      12.7.3. Right to deduct input taxes
   12.8. Interaction of VAT grouping and the exemption for cost-sharing arrangements

References