

Value Added Tax and Direct Taxation - Similarities and Differences

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Wei Cui

Associate Professor,

China University of Political Science and Law, Beijing.

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Edoardo Traversa / Charles-Albert Helleputte

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Mark Keating

ANTI-ABUSE: VAT/GST VS. DIRECT TAXATION

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Univ.-Prof. Mag. Dr Michael Tumpel

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Pablo Chico / Pedro M. Herrera / Jesús Rodríguez

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Luca Cerioni / Pedro M. Herrera

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Oskar Henkow, L.L.D.

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Ine Lejeune/David Stevens/ Mark Killer

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Dimitra Koulouri*

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- IV. Conclusion

RELATIONS BETWEEN HEAD OFFICES AND PERMANENT ESTABLISHMENTS: VAT/GST VS. DIRECT TAXATION

Dr Francesca Vitale

- I. Introduction: “Theoretical” vs. Comparative Approach
- II. Brief thoughts on the characteristics and function of permanent establishments
 - 1. Branches and establishments in commercial law
 - 2. The function of the permanent establishment concept for direct and indirect tax purposes
 - 3. Can we consider a permanent establishment a separate entity from its head office?
 - 4. Can a single entity have a legally relevant relation with itself?
 - 4.1 *Origin and function of the “legal relationship” requirement*
 - 4.2 *Configurability of “unilateral” legal relationships*
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 - 1. Taxable persons and business activity within EU VAT
 - 2. Is supplying services different from supplying goods?
- IV. On the relationship between the structure of income taxes and the tax treatment of intra-entity transactions
 - 1. The “separate entity” approach
 - 2. The attribution of profits deriving from intra-company transactions
- V. The FCE Bank case

1. Permanent establishments and independent activities
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 3. The scope of the ECJ's ruling
- VI. The treatment of the relations between establishments and their head offices as an issue of tax policy

RELATIONS BETWEEN HEAD OFFICES AND PERMANENT ESTABLISHMENTS: VAT/GST VS. DIRECT TAXATION

Tomas Balco

- I. Introduction, or Two to Tango
- II. Who are the two?
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 - 3.1. *Definition of permanent establishment in the OECD Model*
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 - 3.3. *Observation of the definition of permanent establishment*
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 - 3.5. *Concluding remarks on the definitions*
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 - 1.2. *Implications for direct taxation*
 - 1.3. *Implications for VAT*
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TRANSFER PRICING IN VAT/GST VS. DIRECT TAXATION: RELATIONS BETWEEN ASSOCIATED COMPANIES

Richard T. Ainsworth

- I. Transfer pricing at the border
 1. Final Canadian Caveat
- II. Relationships – associated enterprises

- III. Methods
 - 1. Five basic methodologies
- IV. Time
 - 1. Proposed solution – APAs & Certified systems
 - 2. Solution – The APA part
 - 2.1. Private Ruling HQ 546979
 - 2.1.1. Facts – HQ 546979
 - 2.1.2. Importer's Argument & Custom's Rejection – HQ 546979
 - 2.1.3. Custom's Solution: Resolving the Granularity & Timing Issues – HQ 546979
 - 3. Solution – The certified systems part

TRANSFER PRICING PRINCIPLES VAT/GST VERSUS DIRECT TAXATION

Dennis Ramsdahl Jensen PhD

- I. Introduction
 - II. The importance of the principle of fiscal neutrality for assessing the taxable amount under VAT law
 - III. The purpose of transfer pricing rules in a VAT system
 - 1. Transactions at undervalue
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 - IV. The optional transfer pricing provision in Art. 80 EC VAT Directive
 - 1. The scope of Art. 80 EC VAT Directive
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 - 1.2. *Related parties*
 - 1.3. *Open market value versus the arm's length principle*
 - 1.4. *Consideration at below open market value*
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- Evaluation of the Directive's transfer pricing rules in the light of the principles of fiscal neutrality and proportionality
- V. proportionality
 - VI. Harmonization of the transfer pricing principles between direct and indirect taxation
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NON-INTEGRATION AND INTEGRATION OF BUSINESSES IN EUROPEAN VALUE ADDED TAX AND IN CORPORATE INCOME TAX

Ad van Doesum / Dr Gert-Jan van Norden

Tilburg University, the Netherlands

- I. INTRODUCTION
- II. THE OBJECTIVES OF EUROPEAN VAT AND CIT
 - 1. THE SIGNIFICANCE OF OBJECTIVES OF TAX LAW
 - 2. THE OBJECTIVES OF EUROPEAN VAT
 - 3. THE OBJECTIVES OF CIT
 - 4. TENTATIVE CONCLUSION: SIMILARITIES AND DIFFERENCES
- III. LEGALLY NON-INTEGRATED BUSINESSES (GROUP COMPANIES)
 - 1. EUROPEAN VAT AND GROUP COMPANIES

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- IV. FISCAL INTEGRATION OF LEGALLY NON-INTEGRATED BUSINESSES
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- V. *DE FACTO* INTEGRATION OF NON-INTEGRATED BUSINESSES
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- VI. CONCLUSION

GROUPS OF COMPANIES AND INTRA-COMPANY DEALINGS – A COMPARISON BETWEEN INCOME TAX AND VALUE ADDED TAX

Prof. Dr Eleonor Alhager, Uppsala University, Sweden

- I. Introduction
- II. Income tax
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 2. Intra-company dealings
- III. Value added tax
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CROSS-BORDER GROUP TAXATION REGIMES: VAT/GST VS. DIRECT TAXATION

Andrea Parolini

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- III. Corporate Income Tax Grouping
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- IV. VAT/GST Group recognition
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 - 2.1. Overview
 - 2.2. Alternative methods
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- V. Conclusion

PLACE WHERE THE SUPPLY/ACTIVITY IS EFFECTIVELY CARRIED OUT AS AN ALLOCATION RULE: VAT VS. DIRECT TAXATION

Rita de la Feria

- I. Introduction
- II. Allocation of Taxing Rights in Direct Taxation
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 3. Limitations of International Tax Allocation Rules
 - 3.1. Proposals for Alterations to Current International Tax Allocation System
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 - 3.4. Compliance Effects
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ALLOCATION OF TAXING RIGHTS BETWEEN STATES – PLACE WHERE THE SUPPLY/ACTIVITY IS EFFECTIVELY CARRIED OUT AS ALLOCATION RULE: VAT/GST VS DIRECT TAXATION

Mie Pelzer / Carsten Vestergaard

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TAXING RIGHTS IN RELATION TO IMMOVABLE PROPERTY: VAT/GST VS DIRECT TAXATION

Karolina Tetlak / Caroline Kindl

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ALLOCATION OF TAXING POWERS: MEANS OF TRANSPORT

Christophe Waerzeggers

- I. Introduction
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 - 2. Why means of transport give rise to cross-border tax issues
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- V. VAT treatment of the importation of means of transport
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- VI. VAT treatment of supplies of means of transport
 - 1. Sales of means of transport: general provisions

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 - 1.1.1. Place of taxation for goods supplied across borders within the EC
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- 2. Leases of means of transport
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 - 2.2. Current place of supply rules
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UNILATERAL MEASURES TO AVOID INTERNATIONAL DOUBLE (NON-) TAXATION: VAT/GST VS DIRECT TAXATION

Pernilla Rendahl, Jur. Dr.

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- II. International Double (Non-) Taxation
 - 1. Terminological Issues
 - 2. Overview of Causes of International Double Taxation
 - 3. Overview of Causes for Double Non-Taxation
 - Differences and Similarities in International Double (Non-) Taxation for GST/VAT and Direct Taxation
 - 4. Purposes
- III. The Scope of Unilateral Measures
 - 1. Available Measures
 - 2. Principles to Decide which State has the Right to Tax an item of Income or a Transaction
 - 3. Possibilities for Deduction of Foreign Tax (e.g. Credit/Exemption)
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AVOIDANCE OF VAT/GST DOUBLE (NON-)TAXATION: RECOMMENDATIONS AND OTHER TYPES OF SOFT LAW VS. LEGALLY BINDING INSTRUMENTS TO ALLOCATE TAXING RIGHTS BETWEEN STATES (E.G. BILATERAL TAX TREATIES)

Nils Eriksen /Karl-Heinz Haydl

- I. Introduction and hypothesis
- II. Are there no problems related to international VAT/GST?
 - 1. Developments in international trade and the importance of VAT/GST
 - 2. Reports of problems

- III. Have treaties been considered for VAT/GST?
Would it be valuable to explore whether the role of treaties based on a common model should be enhanced to cover VAT/GST?
- IV.
 - 1. Is there a match between the VAT/GST problems and the income tax solutions?
 - 2. Double taxation and VAT/GST
 - 3. Double non-taxation and VAT/GST
- V. The current OECD VAT/GST approach
- VI. The existing OECD tax outputs
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 - 2. The form of the outputs - soft law vs. hard law
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- VIII. Summary and preliminary conclusions

SOFT TAX COORDINATION: A SUITABLE PATH FOR THE OECD AND THE EUROPEAN UNION TO ADDRESS THE CHALLENGES OF INTERNATIONAL DOUBLE (NON-)TAXATION IN VAT/GST SYSTEMS

Prof. Dr Pasquale Pistone

- I. Introduction
- II. VAT harmonization in Europe and an EU-OECD cooperation
- III. Soft vs. hard tax coordination
- IV. Implementing coordination of consumption taxes at the level of judicial interpretation
- V. The future of international tax law: soft tax coordination and common judicial interpretation

SHARING THE “MAGIC PUDDING”- AN AUSTRALIAN APPROACH TO ALLOCATION OF TAXING RIGHTS

Michael Walpole

- I. Introduction
 - 1. Background
 - 2. The allocation of taxing powers within Australia’s Federation
 - 3. The income tax power in the Australian Constitution
- II. The Commonwealth Grants process
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 - 1. Reform of Commonwealth State Financial Relations
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- IV. Lessons for Europe?

THE GENERAL AGREEMENT ON TRADE IN SERVICES AND ITS IMPACT ON EUROPEAN TAXATION

Ralph Korf

- I. What is GATS?
 - 1. From GATT 1947 to WTO
 - 2. Signatories
- II. Obligations, general and specific releases under GATS

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 - 1.2. Most-favoured Nation Treatment (MFN)
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EFFECTS OF EXISTING TAX TREATIES ON VAT (RELEVANCE OF ARTS. 24–27 OECD MODEL FOR VAT/GST)

Prof. Dr Marc Bourgeois/ Ms Adeline Römer

- I. Introduction
- II. The objective scope of Arts. 24–27 of the OECD Model
- III. Relevance of Arts. 24–27 of the OECD Model for VAT/GST
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 - 1.2.1. Discrimination based on nationality
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- 3.1. General
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- IV. Conclusion

TAX TREATIES – A SOLUTION TO VAT/GST DOUBLE TAXATION

Thomas Ecker

- I. The problem of double taxation in VAT/GST
- II. A proposed solution – VAT/GST treaties
- III. Income tax treaties as starting point for development of a VAT/GST treaty
 - 1. Use of concept and structure of income tax treaties
 - 2. Extension of existing income tax treaties to VAT/GST?
 - 3. Personal scope in separate independent VAT/GST treaties
 - 4. The problem of unintentional double non-taxation
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CONTRIBUTORS