Jean Monnet Module

"Economic Policy in the European Union"

Session 4.5. The harmonizing process of VAT in the EU

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Concept

Tax harmonization is the process of approximation or convergence of tax systems in force in a group of countries or territories with tax autonomy.

The concept of tax harmonisation is linked to the origins of the European Union, although it may also refer to other territorial areas.

Concept

Professor Ricardo Calle, surely the first Spanish scholar of European tax harmonisation, defined it as:

"A process of approximation, gradual and partial" of the tax systems of the member countries of an economic community "to avoid fiscal distortions" in them.

Without saying that: "Harmonization does not mean unification or total homogenization of these tax systems".

The 1957 Treaty of Rome, in Article 99, initiated the journey of European harmonisation, putting it at the service of the creation of a common market.

"The Council (unanimously, on a proposal from the Commission and after assistance to the European Parliament and the Economic and Social Committee) shall adopt the provisions concerning the harmonisation of laws relating to turnover taxes, excise taxes and other indirect taxes (to the extent such harmonisation is necessary) to ensure the establishment and functioning of the Internal Market …".

First steps towards fiscal harmonisation (The Neumark Report)

German Professor Fritz Neumark of the University of Frankfurt was the theoretical architect of European tax harmonisation.

He was tasked by the European Commission with leading a team of experts to design that process.

The Neumark Report (1962) established the first coordinates for European fiscal harmonisation.

Tax distortions

In a context of economic and monetary integration, the differences between the tax systems in force in the Member States…

… can create fiscal distortions that hinder the ultimate fulfillment of foundational objectives.

Any discrimination of tax origin that alters the conditions of concurrence of a market…

… so that the decisions of the subjects on where to produce, buy/sell, invest, etc. are modified.

Options to counteract distortions

The Treaty of Rome itself established a catalogue of solutions to counteract these distortions.

It specifically cited the following possible measures:

1. Tax compensation mechanisms.

2.- Tax harmonization.

3.- Total tax unification

Options to counteract distortions

1. Use of simple fiscal compensation mechanisms to avoid such distortions of market conditions of competition.

2. Implement a process of fiscal harmonization, taking such measures as may be necessary to eliminate existing distortions.

3. Address a total unification of the tax systems of the Member States of the European Economic Community.

Following the recommendations of the "Neumark Report", resulting from the work carried out by the Commission chaired by Professor Frankfurt, the European authorities reached the following conclusion:

While the optimal option could be considered to be the third (total unification of tax systems)

The difficulties arising from their implementation, given the large difference between tax systems (economic reasons), and the loss of fiscal sovereignty of the States that would entail their implementation (political reasons),

determined that the best alternative would be fiscal harmonization.

This harmonization, as Professor Calle well established in his works:

It would be "a process of progressive but partial approximation of the tax systems of the Community countries, with the aim of eliminating distortions preventing the realization of a Single Market".	It is therefore set up not as an end in itself, but as an instrument to achieve the objectives proposed in the European Treaties and set at all times by the European authorities.

THREE WAYS TO ACHIEVE FISCAL HARMONIZATION:

1. Through tax competition: letting market forces achieve this approximation of tax systems, without introducing specific measures from European authorities.

2. Active harmonisation or coordination: the Community institutions lay down the rules to be applied in the States in order to achieve this tax approximation.

3. Unilateral harmonization, so that countries are freed to take such measures as they deem appropriate individually.

Three possible formulas but what was the strategy followed?

In the area of indirect taxation (VAT and excise taxation) the Community authorities opted for an active harmonisation strategy: to dictate the common rules to be applied in all Member States.

With regard to direct taxes, a competition strategy was chosen: market forces would be the ones that approximated the tax structures of States, institutional measures would be reduced to specific aspects: the structure and functioning of cross-border enterprises.

In addition, progress has been made in combating tax evasion and the relocation of taxable income, as well as in cooperation between tax administrations.

Progress in European integration

We can cite the following milestones in the process of European integration, which have an impact on harmonising taxation developments:

- Single European Act (Luxembourg, 1986) and in force since 1/1/1987, proposed the creation, from 1993, of a Single Internal Market.
- The Treaty on European Union, better known as the Maastricht Treaty, proposed the creation of monetary union.

HARMONIZATION AND SINGLE INTERNAL MARKET

Once the Common Market was reached, the next important milestone in the Process of European Integration was the achievement of a Single Internal Market, which functioned as a national market.

It involved the elimination of borders between States and the free movement of goods, persons, services and capital within the European Union.

Again, indirect taxes, closely linked to trade, were an obstacle to achieving this objective.

This forced further measures in the tax field by the Community authorities.

INDIRECT IMPOSITION

VAT and Excise

The tax harmonization of excise taxes has been progressing as they constituted an obstacle to the fulfilment of the objectives set out in the Treaties.

We will address the analysis and balance of indirect tax harmonization in this order:

1) Value Added Tax.

2) Excise taxes

1) Value Added Tax

1) Value Added Tax

From the outing point of view, VAT was set up as the most important tax to achieve the objectives of European integration.

Most Member States had cumulative multiphase tax systems in their tax systems.

This way of taxing the overall volume of sales was highly distorting for the achievement of a common market.

The Neumark report underlined this and placed VAT among its main recommendations.

As far as 1967, the European Commission decided to implement this multiphase but not cumulative tax in all the countries of the Common M.

Modalities of Indirect Consumption Taxes

- **Single phase**
  - They are applied in a single phase of the processes of production and distribution of goods
- **Multiphase**
  - Cumulative
  - Added Value

Community Budget own resources

The unification in VAT of the general taxation on consumption of all Member States was the first harmonizing step.

The following was based on the 1970 Council Decision on the system of own resources to be financed by the Community budget.

The first of these resources were so-called "Traditional Own Resources"

TRADITIONAL OWN RESOURCES

The main one of these Traditional Own Resources was value added tax (VAT).

Together with VAT, customs duties from the Common External Tariff were part of this group of budgetary resources once the Customs Union had been consolidated.

Finally, agricultural regulatory charges under the CAP and sugar and isoglucose contributions supplement this revenue from the Budget.

VAT BUDGET OWN RESOURCE

In particular, the VAT appeal would be a part of it from each State.

The quantity would be determined by applying a percentage by all Member States on a homogeneously calculated basis.

The previous directives had left a lot of freedom in relation to the elements of the VAT structure.

It became necessary to homogenise its tax base in order for the system of own resources financed by the Community budget to function properly.

This was done by the adoption of the Sixth Directive (17 May 1977), which defined a uniform basis on which to apply VAT.

Until the late 1980s, harmonisation was reduced to ensuring that the tax applied to the same transactions in all Member States, thus facilitating its role as a budgetary resource.

From the Common Market to the Single Internal Market

The Single European Act lays down the date of 1 January 1993 for the completion of the Internal Market:

- Elimination of fiscal borders between Member States.
- Suppression of "border tax adjustments".
- VAT: application of the principle of taxation at source.
- Intra-Community operations (between different Member States) would have the same treatment as internal operations.

From the Common Market to the Single Internal Market

VAT requirements:

Approximation of tax rates.	Establish a financial clearing system.

The agreement was impossible (required unanimity) and a Transitional Regime was introduced, which maintained the principle of imposition at destination for transactions between Member States.

This transitional regime remains in force, consolidating in 2006 (Directive 2006/112/EC).

The current objectives of the Community authorities in relation to VAT focus on:

Create a simpler and more transparent system (which frees companies from customs cargo and encourages cross-border trade)

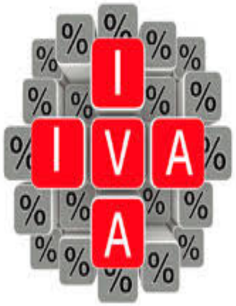
Establish a more efficient system (expanding tax bases and limiting the use of reduced rates)

Reduce tax evasion (encrypted by the European Commission by around 12% of the VAT to be collected). (1)

(1) Communication from the European Commission: "Future VAT regime:
Business-friendly, pro-growth." 6/12/2011

ADVANCES IN VAT HARMONISATION

They have not been as fast and firm as it would have been to be desired to be able to talk about a solvent harmonizing process. Like this:



February 2008: Two Directives were adopted.

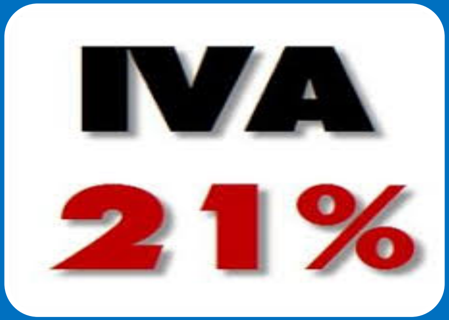
One, concerning the place of location of services (subject to VAT in the State of the recipient of the service)

The second regulates the process of refunding VAT paid by a taxable person in a State other than that of his residence

On 5 May 2009, the Directive on the application of reduced rates different sectors was adopted.

Harmonization of VAT rates

As far as tax rates are concerned, differences in both the number of applied rates and their level are maintained.



Community legislation is reduced to establishing, on a temporary basis, a minimum limit of 15% for the normal rate.

The application of the same special types is maintained:

- Reduced, super-reduced and zero type.

Type harmonization. New proposals

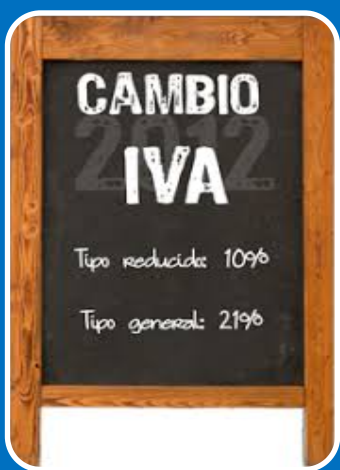
In January 2018, the Commission submitted a proposal on tax rates to enter into force once the final regime has already been adopted (July 2022?).

It is proposed that countries be able to apply:

- In addition to a normal rate (equal to or greater than 15%),
- two reduced rates (between 5% and the country's normal),
- a reduced rate between zero and the level of reduced rates and a zero rate.

Type harmonization. New proposals

In addition, it is proposed to remove the list of reduced rates and replace them with a new list of products to which the normal rate should apply (small rates cannot be applied).



In order not to reduce State tax revenues, the weighted average rate of VAT (the rate input by end consumers, which is not deductible) must be at least 12%.

VAT and Digital Single Market

In April 2016, the European Commission gave a leading impetus to the VAT tax harmonisation process with the presentation of the "VAT Action Plan". It acknowledges that the current VAT system has not been able to keep pace with the challenges posed by the global, digital and mobile economy, as:

- It struggles to cope with innovative business models and technological advances in the digital environment.
- It is highly vulnerable to fraud (cross-border fraud alone represents a loss of collection of EUR 150 billion to Member States each year).

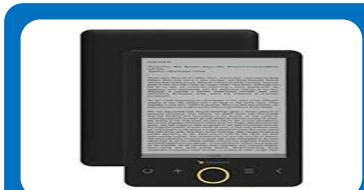
It therefore considers that VAT must be modernised and renewed, establishing a single European VAT area to meet the challenges of the 21st century.

In this context, VAT harmonization in the second decade of the 21st century focuses on the following issues:

- Digital single market

- Cross-border e-commerce

- Fraud in cross-border operations



- E-book

- Anti-fraud measures specific to the automotive sector

2) Excise taxes

Harmonization of Excise Taxes

The process of tax harmonisation of excise taxes is very different from that followed by VAT.

Therefore, the first task focused on determining which taxes should be maintained in all States and which should be abolished.

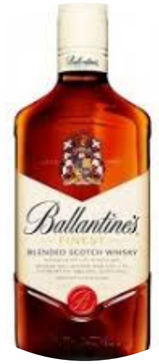
In this case, the starting situation was characterised by the existence of multiple different taxes in each Member State.

Harmonization of Excise Taxes

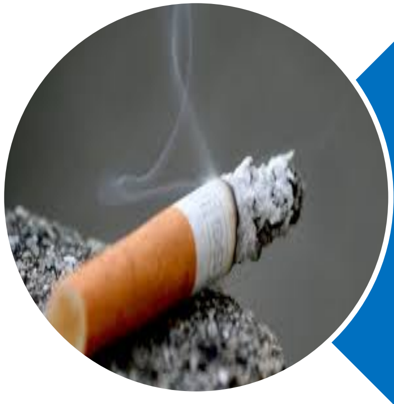
It was decided that the taxes to be maintained are manufacturing taxes:

- On alcohol and alcoholic beverages,
- On tobacco and tobacco
- About hydrocarbons.

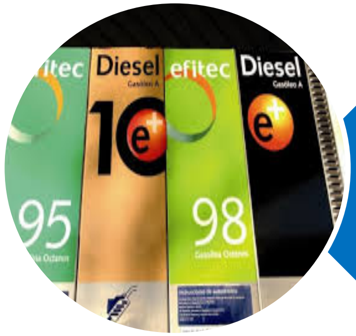
Harmonization of Excise Taxes



The next step was to harmonize their structures and then the tax rates.



Numerous proposals were submitted throughout the 1970s and 1980s, and two tobacco directives were adopted (one in 1972 and one in 1978), but with little significance for the process of fiscal approximation.



The process of harmonization of excise taxes occurs through a gradual and relatively long transition.

HARMONIZATION OF EXCISE TAXES FACES THREE OBSTACLES

1o) Social customs and customs (it is difficult to introduce new levies on products that have always been exempt in certain countries).

(2nd) Consumption structures, as rapid modification of levies could lead to changes in consumption habits and difficulties for certain traditional productions.

3o) The decline in tax revenues, as abrupt harmonisation would affect collection.

Single M.I. and harmonization of the II. Special

In 1992, in view of the achievement of the Single Internal Market, the Directive governing the current regime was adopted.

It provides the only taxes that can be maintained and harmonizes its structure.

As with VAT, the agreement on tax rates was not possible. It was chosen to set minimum rates from which States would set their rates of levy.

As in VAT, excise taxation is at destination and is single-phase. This regime is considered definitive.

Excise taxes: Synthesis of Community harmonisation.

In all Member States there must be excise taxes on the consumption of:

- Alcohol and alcoholic beverages
- Energy products
- Electricity
- Tobacco work

Excise taxes: Harmonising synthesis at Community level.

The basic structure of compulsory accessions must be the same in all Member States.

Member States may at any time maintain or introduce excise taxes other than those indicated.

It shall be a condition that they do not give rise to checks of any kind in community trade in products subject to them.

DIRECT IMPOSITION

Personal Income Tax

Corporation Tax

In the area of direct taxation, the EU strategy was tax-competitive.

This is logical when you consider that States:

Indirect taxes have a high level of harmonization, limiting their economic and budgetary sovereignty.	They have limitations in their budgetary policy established by the Stability and Growth Pact	They have ceded their monetary policy in favour of the ECB

Harmonization of direct taxes

National governments therefore resist losing sovereignty with regard to direct taxes.

They reserve the possibility of making regulatory changes to them, to compensate for possible internal budgetary imbalances.

However, there have been a number of proposals for harmonization in corporation tax, but not so much in the IRPF.

This seems logical when we take into account the increased mobility of the capital factor compared to that of the labour factor and the increased impact of companies on intra-Community and international transactions.

Four major stages can be differentiated in the process of harmonizing direct taxes:

1a) Until 1988, or until the adoption of the Directive allowing the free movement of capital.

2a) From 1988 to 1997, the year in which the so-called Tax Package is presented.

3a) It would range from that time until the early years of the 21st century.

4a) That would extend to the present moment.

First stage. Reports

- Few proposals for Directive s/ Direct Taxes. It was reporting times.
- Neumark Report (1962): Analyses the differences in the tax systems of the Community countries and their possible consequences (tax distortions), recommended their progressive harmonisation so that taxation was neutral with respect to economic decisions and that conditions of competition were not damaged.
- In 1970, the Werner Report advocated convergence of both the tax base and corporate tax rates.
- The Burke Report (March 1980) again raised the need to approximate the rules for determining the tax base and corporate tax rates.

- **First Stage. Policies.**
- Council Directive 77/799/EEC of 19 December 1977 on mutual assistance between Member States (competent authorities) in the field of direct taxation.
- In 1969, the Commission prepared two Proposals for a Directive, one on the tax regime applicable to parent companies and subsidiaries resident in different Member States, and one on corporate restructuring operations within the EEC. Both proposals were finally approved in 1990.
- 20 September 1984, new Proposal for a Directive on the harmonisation of the tax system for compensation for losses

Second Stage

- The starting point for this second stage should be 24 June 1988, when the Council approves Directive 88/361/EEC, which provides for the free movement of capital within the EEC.
- Member States expressed concern about the negative effects that, on the location of savings, could arise as a result of the tax disparities in this area between national tax regimes.
- This led the Council to include in the Directive a provision urging the Commission to submit, by 31.12.1988, the proposals necessary to eliminate the risks of distortion, evasion and fraud.

Second stage: Two failed proposals

On 8 February 1989, the Commission presented two Proposals for a Directive, which were not approved.

The first proposed a minimum withholding tax of 15% on interest, unless the financial institution had an obligation to automatically inform the Tax Administration, in which case the withholding tax would only apply to non-residents.

The second envisaged the extension of information and mutual assistance obligations between member countries' tax authorities.

Second step (cont.)

An important moment in the harmonizing process of direct taxes was 1990.

On 23 July, two Directives (parent-subsidiary and mergers, divisions, branch contributions and securities exchange) are adopted.

The Arbitration Convention was also approved.

The aim was to improve the competitiveness of European companies, as well as to facilitate their restructuring in the face of international markets.

Other failed proposals

On 6 December 1990, two new Proposals for a Directive were submitted.

One raised the possibility that European companies could deduct from their profits the losses recorded by their subsidiaries located in other States.

The other provided for the elimination of withholding tax on interest and charge payments between parent companies and subsidiaries resident in different Member States.

Like many others, they were not approved.

The reasons should be sought not in their content, but in the position of some countries not in favour of harmonizing capital taxation.

The Ruding Report and the I. Companies

The Commission, like so many other times, set up a Committee of Experts to examine whether or not such an approximation was necessary.

The Ruding Report, prepared by that Committee, dates from 18 March 1992 and proposed active harmonisation of corporation tax in the European Union.

It also proposed concrete measures to:

Eliminate international double taxation

Harmonize the tax structure: Tax base (depreciation, provisions, capital gains, deductible expenses, etc.) and tax rates.

Partial harmonization of I. Companies

As can be seen, there are no concrete proposals that raise the deep harmonization of the corporate tax structure.

Most of them relate to very specific aspects of the tax.

They basically try to:

- Eliminate tax barriers to companies operating internationally.
- Avoid double taxation.
- Prevent tax fraud.

Third Stage (1997-2005)

A new stage in the process of harmonizing direct taxes begins with the submission and approval, in December 1997, of the so-called Tax Package.

This Package consists of three measures:

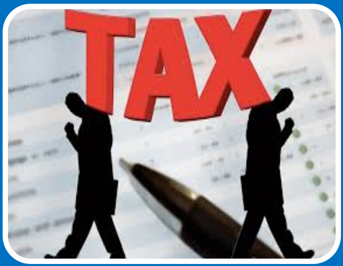
1.- The Code of Conduct

2.- Tax treatment of the interest on savings received by non-residents.

3.- Processing of interest and royalties payments made between partner companies in different Member States.

1.- The Code of Conduct.

Its approval involved the political commitment on the part of the Governments of the Member States to eliminate tax rebates from their taxation.



By entailing a lower levy they could influence the location decisions of companies.

In short, it was a question of eliminating tax competition between Member States.

Third Stage (1997-2005)

2.- Tax treatment of the interest on savings received by non-residents.

There is no coordination between national tax systems in the field of interest received in another State.

In June 2003, a directive was adopted to ensure that these savings yields paid in one Member State to natural persons resident in another are subject to effective taxation in accordance with the legislation of the latter.

On 24 March 2004 the European Council approved a revised version of this Directive to reduce tax evasion and evasion.

THIRD STAGE (1997-2005)

3.- Processing of interest and royalties payments made between partner companies in different Member States.

The aim was to eliminate double taxation in these cases, which was not guaranteed by national laws despite its bilateral or multilateral conventions.

That is why the Directive adopted in June 2003 essentially provides for withholding tax exemption for those transactions.

In addition, the Directives adopted in 1990 were partially amended, which fiscally regulated the relationship between parent-subsidiary companies and business restructuring processes.

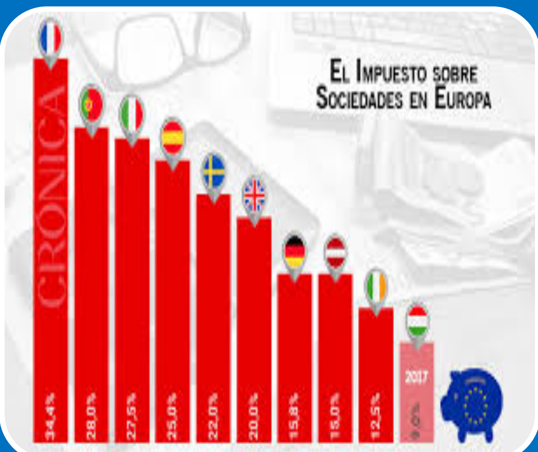
Third stage (1997-2005)

Thus, in relation to the first of them (parent-subsidiary undertakings), the percentage of share required for one entity to be considered a subsidiary of another was gradually reduced (from 25% to 10% from January 2009).

In the area of mergers and divisions, a Directive was adopted in March 2005 incorporating new transactions to which the special tax regime applies (change of registered office from one Member State to another and partial divisions) and also progressively reduced the tenure threshold for the exemption from capital gains.

Fourth Stage (2005-present)

This stage begins with the presentation by the European Commission of an ambitious proposal to establish a Common Tax Base in corporation tax for those undertakings active at Community level.



Its objective was to simplify the tax and remove the many obstacles that existed for companies that had to know and apply as many different national regulations as countries in which they carried out their activity.

4th stage: Towards a Common Tax Base in Corporation Tax

While the Commission has maintained the need to introduce such a measure, as it highlighted again in 2003 (communication on business taxation) and in 2005 (fiscal policy priorities for the following years),

There was no significant progress in its implementation until March 2011 when the Commission relaunched this proposal.

Proposal that basically raises the following:

(a) Undertakings operating in different Member States shall calculate a single taxable amount.

b) Harmonization should be limited to the tax base.

(c) States would maintain their tax rates, so the fee to be paid would depend on their tax rate.

(d) The common basis would be distributed among States on the basis of sales, payroll and the value of tangible fixed assets in each country.

(e) A "one-stop shop" system would work, so that undertakings would only file a return in the country in which the parent company is located, with the tax authorities of that country distributing the share of the tax to each Member State.

(f) Companies may offset losses in one Member State with profits in another.

4TH STAGE: THE FIGHT AGAINST FISCAL EVASION

While this proposal for a Common Tax Base is relevant to the cross-border activity of European companies.

The most significant thing about this fourth stage is the presentation of a large set of measures presented and taken by the European Commission to combat tax evasion.

In line with the project 'Erosion of the tax base and transfer of profits' presented in July 2013 by the OECD.

THE FIGHT AGAINST TAX EVASION

This project draws attention to the tax planning strategies used by multinational companies to take advantage of discrepancies, gaps and inconsistencies in national tax systems

and transfer their profits to countries of little or no taxation, where entities are barely engaged in any economic activity, the avoiding payment of corporation tax.

THE FIGHT AGAINST TAX EVASION

The fight against corporate tax evasion has become one of the main priorities of the Community authorities since 2015.

Corporate tax evasion erodes Member States' revenues and undermines the fair distribution of the burden between companies and individuals and competition between undertakings.

All this results in the presentation and/or adoption of numerous measures at European level.

The European Union puts in place a number of measures to prevent this relocation of corporate profits and ultimately their non-taxation.

THE FIGHT AGAINST TAX EVASION

Fiscal transparency is first conceived as an essential element in the fight against corporate tax evasion, as Member States may simply lack information.

Therefore, in March 2015, a proposal was adopted where-every 3 months, national tax authorities should send a brief report to all other Member States on their cross-border tax rulings.

The year 2016 is also particularly active in the field of European taxation, as an ambitious package to combat tax evasion is presented in January, and by the end of the year, in October, another corporate tax reform package.

Measures taken in January 2016

a) An aggressive anti-tax planning directive adopted in June.

b) A revision of the directive proposing the exchange of key tax information related to multinationals operating in the EU for the best detection and prevention of tax evasion.

c) A recommendation advising Member States how to strengthen their tax treaties against abuse by aggressive tax planners, in accordance with EU law.

d) A communication that raises the need to work with third countries in the fight against aggressive tax planning.

OCTOBER 2016 REFORM PACKAGE

(a) Towards a more modern and fairer tax system for businesses, to eliminate loopholes between EU countries and non-EU countries,

b) Relaunches the draft common tax base, expanding its implementation at a second time in relation to fiscal consolidation

c) It also includes a very generous deduction for companies investing in R&D expenditures, given the importance of such investment for growth and employment.

(d) A new mechanism for resolving double taxation disputes is proposed to cover a wider range of cases and sets clear deadlines for agreeing on binding solutions.

Direct Taxes

Corporation Tax

Other aspects of corporate harmonization

Taxation of the digital economy

Another clear priority of the European Commission in the tax field is to achieve fair taxation of the digital economy

Companies' international tax rules do not conform to the realities of the modern global economy

Therefore, there is a "mismatch" between the place where the value is created and the place where taxes are paid.

New transparency rules for intermediaries

The proposal adopted in May 2018 by EU Ministers for Economic and Financial Affairs deals with new transparency rules for intermediaries designing or selling potentially harmful tax schemes.

The following pages develop the aforementioned aspects that have to do with:

- The taxation of the digital economy

- New transparency rules for intermediaries.

TAXATION OF THE DIGITAL ECONOMY

- In order to prevent these mismatches from occurring, in March 2018, the Commission has made two legislative proposals.
- The **first** initiative aims to reform corporate tax regulations so that profits are recorded and taxed when companies have meaningful interaction with users through digital channels.
- The **second** proposal proposes to introduce a European tax covering the main digital activities, so that immediate revenue is generated for the Member States.

Digital economy. 1st Initiative

- A digital platform would have taxable "digital presence" or a virtual permanent establishment in a Member State, if it meets one of the following criteria:
- Exceed 7 million euros of annual revenue in a Member State.
- Have more than 100,000 users in a Member State in a tax period.
- More than 3,000 commercial contracts for digital services between the company and commercial users in a tax period.

- Companies will pay taxes in each of the State in which they have a significant digital presence.

DIGITAL ECONOMY. 2ND PROPOSAL

- This tax would help to avoid unilateral measures taken by some Member States to tax digital activities.
- It would in any event be an interim measure, until comprehensive reform has been implemented.
- The tax (at a rate of 3%) it will apply to revenue earned from: the sale of online advertising spaces, activities of digital intermediaries that allow users to interact with other users and that can facilitate the sale of goods and services between them, and the sale of data generated from information provided by the user.
- Tax revenues would be collected by the Member States where the users are located, and will only apply to companies with total annual global revenues of EUR 750 million and EU revenue of EUR 50 million.

NEW TRANSPARENCY RULES FOR INTERMEDIARIES

- Finally, the latest proposal adopted in May 2018 by EU Ministers for Economic and Financial Affairs on new transparency rules for intermediaries designing or selling potentially harmful tax schemes should be highlighted.
- Intermediaries are companies or individuals, such as consultancies, banks, lawyers, tax advisors, accountants, etc., that can help their clients design plans to reduce their tax bills.
- While most of the services provided by intermediaries are legitimate, the role they can play in international tax evasion and evasion through the design of schemes specifically designed to help their clients escape taxes has been exposed.
- This provides that intermediaries must report on any cross-border agreement if it contains at least one of the indicators, "distinctive seals", described in the proposal. The Member State in which the agreements are reported, on a quarterly basis, must automatically share this information with all other Member States, in a standard format, through a centralised database.

I. on Companies and the Single Internal Market

As far as corporation tax is concerned, as has been shown above, many are still obstacles to cross-border economic activity, thus making it difficult to achieve a true Single Internal Market.

Most of the problems identified by the Commission's Technical Services in its 2001 report remain.

Thus, we can highlight, among others, the following:

Corporation Tax. Obstacles to the Single Internal Market.

1. The complexity of the system, with high management costs for the Administration and compliance for taxpayers.

2. Substantial differences between countries as to the rules to be applied to determine the Tax Base.

3. The existing regulatory bias towards business financing through indebtedness, in the face of own financing.

4. Differences between Member States in relation to cross-border compensation for losses.

I.S/ COMPANIES. OTHER OBSTACLES TO THE SINGLE INTERNAL MARKET.

- 5. Differences between Member States as regards the practical use of transfer prices relates. In most cases the required documentation is very broad (generating high compliance costs), and the discretion on the part of States (administrations apply different criteria) generates in most cases uncertainties to the companies that use them. In this regard, the European Commission proposed in 2004 to standardize the documentation that companies must provide to tax authorities in relation to the prices of cross-border transactions within the group.
- 6. The obstacles to cross-border business restructuring operations, despite the existence of the European Mergers and Divisions Directive. The special tax regime provided for in that directive does not cover all undertakings, does not affect all taxes and results in high costs.

Corporation Tax. Obstacles to the Single Internal Market.

7. Facilitate the international expansion of SMEs which, in addition to being subject to high compliance costs and administrative burdens, are more affected by obstacles to cross-border activity, often discouraging the expansion of their activity.
8. Double taxation conventions signed bilaterally between States do not in many cases eliminate double taxation, or cases of discrimination, and generally do not provide solutions in operations involving more than two countries. In this regard, in 2005 the Commission examined closely the possible conflicts between the EC Treaty and the bilateral double taxation treaties which the Member States had concluded. Problems included the issue of equal treatment of EU residents and the implementation of bilateral treaties in situations involving more than two countries (triangular situations). Possible solutions were proposed to resolve these conflicts, such as the creation of an EU version of the OECD Model Convention.

Corporation Tax. Obstacles to the Single Internal Market. Conclusions

Although it has sometimes been pointed out that the harmonisation of accounting standards achieved in the European Union would solve many of the problems facing European companies,

it should be noted that much of the obstacles to cross-border activity are due to differences in the tax rules applicable to determining the tax base, and a significant portion of them are still maintained.

Direct Taxes

We address a few more issues in relation to the IRPF.

Personal Income Tax

Personal Income Tax

In the field of IRPF there is no uniformity between the States of the European Union, so the differences between countries are large.

The institutional measures taken are virtually zero. Tax competition predominates.

Despite the main concerns of the Community authorities, they focused on:

- **1. Cross-border pensions.**
- **2. The "brain drain".**
- **3. Imposition of dividends received by natural persons.**

Without great positive concretions in this regard, we developed these three points on the following pages

1. Cross-border pensions

(a) There are differences between countries in relation to pension schemes (tax deductibility of contributions made and tax treatment of income earned, both in the form of income and in the form of capital).

These differences may result in situations of non-taxation or double taxation by country.

1. Cross-border pensions

b) Discriminatory treatment of some States to members of a foreign body with respect to their nationals.

This is the case in Denmark: pension contributions paid to non-Danish funds do not result in tax relief, but do result in contributions to national funds.

Something similar happens in other countries (Belgium, Spain, France, Italy and Portugal).

The Union has opened infringement proceedings against these countries.

This discrimination:

- It obliges workers to have to sign, for strictly fiscal reasons, a new pension scheme when they move to work in another Member State.
- In addition, it prevents undertakings based in different Member States from centralizing their agreements on occupational pensions into a single system for all their employees in the Union.
- This centralization would enable companies to realize considerable economies of scale and significantly reduce administrative costs.

2.- The "brain drain".

It is noted that some Member States with high tax rates are introducing internal provisions consisting of applying lower rates (usually a fixed rate) for workers with high qualifications, in order to attract them to their country.

This situation would lead to a reduction in taxation on these workers to the detriment of less skilled workers, with the disadvantages that all this would entail on the European labour market.

3.-IMPOSITION OF DIVIDENDS RECEIVED BY PHYSICAL P.

The Commission notes that some Member States discriminate against incoming and outgoing dividends against nationals, applying higher taxation to nationals than nationals.

This lack of neutrality in tax rules may be a restriction on the free movement of capital in the European Union.

A restriction, therefore, on cross-border investment, which results in a fragmentation of the capital market in the European Union.

3.- Imposition of dividends received by physical p.

Accordingly, these practices:

They may lead to a non-optimal allocation of resources, as capital will be diverted from their most productive placements to places where they earn higher after-tax returns for their more favourable tax treatment.

The European Commission has invited the Member States concerned to take such measures as they deem necessary to avoid these discriminations, so as not to have to take appropriate measures before the ECA.

Conclusions on harmonization of direct taxation

Harmonization and direct taxation

There has been little progress in the harmonizing process of direct taxation.

The option has been tax competition.

However, there have been many changes in the rules of the game: free movement of capital, the Single Market and Monetary Union.

These changes have highlighted the great importance of taxation in the decision-making of economic operators.

And its potential distortion generator that prevents the efficient allocation of resources.

Harmonization and direct taxation

Slower growth in the global fiscal burden has been observed in countries with higher rates.

This fiscal competition strategy has led to some convergence, on the down, of member States' tax systems.

This leads to a decrease in your tax revenue, but not to alarming extremes.

Rate drops have been offset by a broadening of the base and with reductions in tax benefits.

Harmonization and direct taxation

It is true that the social protection systems and redistributive policies of States have not been put at risk nominally.

But some regressive effects have had.

For example, in a greater translation of tax burdens towards the labour factor to the detriment of those of the capital factor.

In addition, the European Commission has highlighted in a number of studies that several points of existing unemployment rates are due to labour taxation.

Harmonization and monetary union

Harmonization and monetary union

Reaching a high level of economic integration, the next step was to reach the Monetary Union.

Progress in trade and capital market integration, together with monetary union (common currency, lower interest rate differential, demise of exchange rate risk), made fiscal aspects increasingly relevant.

Harmonization and monetary union

In an internal market environment with monetary union, differences in the direct taxation of Member States made taxation a distorting element for the proposed objectives.

These fiscal differences could have an impact on decisions to localize the various activities, increasing the risk of tax competition between countries of the Union.

This is when progress in the field of harmonisation of direct taxes becomes more necessary, even with so much way to go in a context of fiscal competition dominance.

Conclusions

Conclusions

The European Union's tax system is, in fact, a set of rules and directives that guide and define the tax systems of the states that make up it.

These sets of regulations and directives give content and structure so-called tax harmonisation.

There are three different ways to achieve fiscal harmonisation: through tax competition, active harmonisation or coordination, and unilateral harmonization.

Conclusions

Has harmonization met its objectives today?

Is the path traveled enough to achieve those goals?

Harmonization has not fulfilled all its purposes, it has advanced but it has a long way to go.

Conclusions

It can be said that, also in the field of harmonisation, the EU has circulated at two speeds.

Indirect taxation has been harmonized more quickly and intensively.

Direct taxation, on the other hand, has been slower and more insufficient, opting more for the means of tax competition.

Conclusions

National governments are reluctant to lose sovereignty in favour of supranational entities with regard to direct taxes, reserving the possibility of making regulatory changes to them.

Much of the obstacles to cross-border activity are caused by differences in the tax rules applicable to determining the taxable amount of corporation tax

Conclusions

Member States have the capacity to carry out their own fiscal policies, competing with each other to attract capital and businesses through competitive defiscicalization.

Corporation Tax is primarily responsible for this competition. Despite EMU the difference in levy rates is very wide: Ireland: 12.5% and France almost triples it.

Harmonizing progress in the IRPF has been very limited. It can be said to be the tax guaranteeing the national sovereignty of States. But it has generated tangible social costs.

Conclusions

The Treaty of Rome (1957) already provided for the harmonisation of indirect taxes.

It was its objective to ensure the establishment and functioning of the internal market, hence progress in harmonising indirect taxation, especially in VAT.

The process of harmonizing excise taxes faces three obstacles that recommend a gradual transition: social priorities, consumption structures and tax revenues.

CONCLUSIONS

This is all we can say about tax harmonisation in the available space and in this context of the European Union.

However, the issue of tax harmonization has, at present, a wider projection.

I am referring to the regional context and fiscal powers that ccs. AA. Españolas have in the field of their fiscal co-responsibility.

- The debate is open in this case and arises in it, albeit internally Spanish, another interesting issue in the field of study of fiscal harmonization.

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