

SUMMA

EUROPEAN COMMISSION'S PRACTICE IN PROCEDURES RELATED TO STATE AID ISSUES

Balázs BÉKÉS

Tax ruling as such are not a problem under EU state aid rules. They are comfort letters issued by tax authorities to give a company clarity on how its corporate tax will be calculated or on the use of special tax provisions. However, in the recent period it appears to be a tendency that several EU member states seem to allow multinational companies to take advantage of their tax systems and thereby to reduce their tax burden. While tax rulings are legal in general, they may violate the state aid rules of the EU competition law if they use methodologies to establish different treatments with no economic justification in order to unduly shift profit of the multinational companies. Since June 2013, the European Commission has been investigating various tax rulings of the EU member states, in particular relating to transfer pricing agreements on the basis of state aid rules. The focuses of these investigations are big multinational companies such as Fiat, Starbucks, Amazon, Apple, Engie, McDonald's. Although there are only a few cases, this new approach of the European Commission might change the tax ruling practices of the EU member states. The article gives an overview about legal context of the issue, analyzes in detail some of the landmark decisions of the European Commission in order to uncover some of the fundamental principles regarding the topic.

* * *

SMART TAXATION AND SUSTAINIBILITY

Péter BORDÁS

Nowadays environmental and economic sustainability is one of the most determining issues and problems. In various sectors of the economy, more and more solutions are being made to ensure more efficient use and sustainability of available resources. These are called “smart solutions” in the Anglo-Saxon terminology. We can see more and more similar smart solutions in the tax systems. It may be a question: how the state can adapt these sustainability aspects in the regulation of the most significant public revenues, taxes and in the regulation of taxation. Looking at this issue, this

paper wants to highlight the possibility of a smart tax system. The first introduce of study examines the potential dimension of smart taxation. On the other hand, the study seeks to answer the question: what makes a tax system smart. Finally, the subject of more detailed analysis is environmental taxes which can be found in the domestic tax system.

* * *

SMART TAXATION, SMART TAX REFORM – TAX POLICY BASICS

Gabriella CSÜRÖS

Smart taxation. However, both words are elementary parts of our everyday vocabulary, but the adequate definition of the meaning of the term is a difficulty. The study defines the criteria of smart taxation taking into account the attributes of the smart city and the characteristics of tax policy. Smart tax reform can be seen as a novel research area in Hungarian literature. The study defines the key elements of smart tax reform and examine how it can be promoted at different governmental levels in Hungary and in the EU considering tax policy challenges.

* * *

SOME THOUGHTS ON PERFORMANCE BASED TAXATION AND ON TAXES HAVING INFLUENTIAL PURPOSES

Zsolt HALÁSZ

In this study, I try to explore the aspects and frameworks under which the introduction of taxes can be supported by other goals and reasons than forming revenue for state budget as a fundamental objective. For this, I consider it necessary to reflect on the concept of tax and taxation, the forms of constitutional regulation of taxation and taking into account these issues in relation to the relevant objectives of taxation. According to Hungary's Basic Law, the fundamental obligation to contribute to public revenues is based on contribution capacity and the participation in the economy, and the consequences resulting from the contribution capacity have to be applied to secondary taxes either, not purely for taxes designed for purely budgetary financing purposes.

* * *

UTILISATION OPPORTUNITIES OF BLOCKCHAIN IN TAXATION

Péter Bálint KIRÁLY

Blockchains are already considered the most important invention of the 21st century, which can revolutionize trade, financial intermediary system, taxation and many other areas of life. The block chain is basically a decentralized or distributed ledger that is capable of authenticating transactions without any intermediary. With their help, we can carry out transactions in an anonymous way. A new type of payment instrument has also appeared in connection with the operation of the blockchains: cryptocurrencies (eg. BitCoin). They originally appeared as some kind of a payment for providing the computer capacity needed to operate the block chains. Today, however, they are gaining increasing importance as a means of payment or as a means of exchange in trade. In my study I would like to present the possible usage of blockchain in the field of taxation, highlighting both its benefits and the challenges it raises, and I will also discuss whether cryptocurrencies should be considered money, investment or commodity.

POSSIBLE EFFECTS OF THE LEGISLATIVE RESOLUTIONS OF THE EUROPEAN PARLIAMENT OF 3 OCTOBER 2018 IN THE HUNGARIAN VAT MATTERS

László PARDÁVI

The VAT system of the European Union has been based on transitional rules since 1992, with the aim of dividing the sale of goods across Member States' borders into two stages in the case of intra-company supplies of goods and taxable supplies of the Member State of destination. This system entails a number of risks associated with tax evasion but does not facilitate cross-border transactions from an administrative point of view. On 3 October 2018, the European Parliament adopted two legislative resolutions and a draft legislative resolution to solve some of these problems. However, the proposals unfortunately do not cover the most common problem in Hungarian VAT matters, the lack of regulation of the right to deduct VAT. That is, the right of deduction provided for in Title X of the current VAT Directive, according to the Hungarian tax and judicial practice, is too lenient in the conditions of deduction. In particular, in order to exercise the right to deduct, the taxable person must in fact have only one invoice (Article 178), not dealing with the issues of fictitious invoicing.

* * *

CORPORATE GROUP AS TAX SUBJECT

Ildikó SZABÓ

The introduction of the group taxable person in corporate income tax purposes on 1 January 2019 was aimed at reducing the administrative burden on taxpayers and thus indirectly increasing the competitiveness of Hungarian businesses. At first, the paper examines in general terms the status of Hungary in the international competition lists, particularly in the field of taxation. In addition, the paper considers the areas where further action would be needed to reduce the burden of tax administration and increase competitiveness. At the end, the Hungarian regulation about the group taxable person in corporate income tax is presented by this paper with the advantages and the disadvantages too.

* * *

THE IMPACTS OF TAX REFORMS ON CERTAIN PLAYERS OF CEE TAX-SYSTEMS

Csaba SZILOVICS

This study analyse the teorical and praticional problems and the solutions of tax reforms in the Middle East Europe in the past 25 years.

Show the tax management of the different nation states and on the basic of this experience the ambitions of the countries and make groups of them with the help of the fact how they handle the crisis. It can be seen that the model of Austria lays on the stationary while the Slovakian makes small number but great change. On the other hand the Hungarian, Croatian and Romanian tax management made permanent changes. The author not only write the alterations but analysis the effects on the standard of living and the economical macro statistics.

* * *

THE CHALLENGES OF INTERNATIONAL TAX LAW IN LIGHT OF GLOBALISATION AND DIGITAL ECONOMY

Erzsébet VARGA

On 21 March 2018 the European Commission issued its Communication to establish a modern, fair and efficient taxation standard for the digital economy. The communication states that currently the digital economy contributes to the European Union's economy in the value of 450 billion EUR per year, and its relevance increases year-by-year. The

digital economy stimulates innovation, investments and growth. While digital economy increases, tax avoidance in the digital sector also becomes a huge challenge for tax administrations. Based on traditional international tax principles, foreign taxpayers would only be taxed in a country if they have a physical presence in the country of activity (permanent establishment). This is usually not the case for digital companies, that may result in non-taxation or low-taxation. The European Union is one of the key players in searching solutions to these anomalies.

* * *

THE LEGAL STATUS OF SEARCH ENGINES FROM A FREE SPEECH PERSPECTIVE

András KOLTAY

It seems hard to dispute that search engines should be considered ‘editors’. This position is supported by (1) the preliminary and self-regulatory filtering of content that could offend users (pornography, violence etc); (2) the role search engines play in the removal of links to content violating copyrights, personality rights or other rights, and (3) the possibility of manipulating their search results in their own or someone else’s interest. However, such activities should not be confused, as the activities mentioned in points (1) and (3) are conducted by a search engine at its own initiative, while the activities mentioned in point (2) are required by the government, even though all of these activities are similar, in that each of them represents a deviation from the mission of the search engine, and the compilation of search rankings that are most relevant to users is influenced by external considerations. This is a kind of editorial activity, which, coupled with the special role search engines play in the online public sphere, makes search engines highly influential entities that cannot be considered passive at all. Recognising the editorial nature of the activities of search engines affords them protection against regulatory interference only in the US. Even if the analogy of an editor, as described at the beginning of this chapter, is accepted, the European approach dictates that search engines are considered a special type of media, and the main goals and principles of media policy can be applied on them.

* * *

JOINDER OF PARTIES VS. ARBITRATOR SELECTION

How Party Equality may be Ensured in the Process of Designating Arbitrators in International Commercial Multiparty Arbitrations in the System of the new Hungarian Civil Procedure Code and the new Law on Arbitration

Imola BENCSIK

Arbitration could be described as an alternative dispute resolution procedure based on an agreement between the parties. According to the definition of Rendfern and Hunter's, the *party autonomy* determining the procedure and providing entitlement to assess the dispute. The parties may determine certain rules of the procedure by the virtue of their contractual freedom, but their freedom is not unlimited: besides the mandatory procedural rules and the international conventions, ensuring the party equality also impact on the procedure.

Nowadays a business project rarely involves only a claimant and a defendant: the international transactions and commercial disputes increasingly involve multiple parties. Since arbitration is basically bilateral agreement, it is worth examining that what kind of procedural issues may arise relating the appointment of the arbitrators if three or more parties involved in the procedure.

This study seeks to ascertain how can be ensured the party equality relating the appointment of the arbitrators in multi-party disputes without prejudice the principles of the procedure, the parties' rights and the rules of arbitration.

* * *

THE FIRST STEPS OF INITIATING NATIONAL COMPLAINTS CONTINUOUS RELATIONSHIP BETWEEN THE INITIATIVE AND THE REFUSAL OF THE QUESTION

Gabriella ANTALICZ

To what extent would the image of the functioning of the national referendum system in Hungary be influenced if we looked at it from a different perspective - from the bottom, as a concrete person, organization - the initiator - will live with its constitutional right, wishing - untold pointing to its strengths or shortcomings. The initiator and his question are closely related, and this symbiosis greatly influences the image we create as an external observer when judging the system as a whole. The first step in the process is the moment when the decision is made in the petitioner, which he attempts to put into practice in a narrower or broader way than provided by the legal framework. In case of

success it will be the initiator of social, legal changes, but in the case of its failure, the people – in the form of a referendum – will not be able to express their opinion on the question he raised.

