

Arm's length treatment of soft-intangibles

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Propositions relating to the dissertation:

Arm's Length Treatment of Soft-Intangibles

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**Comparative Analysis of the Treatment of Soft-Intangibles in
Business Restructurings in Germany, the United States and
according to the OECD**

by

Thomas Kipka

1. Markets and access to markets become more important as it can be witnessed by the most recent trade disputes. Therefore, the supply-demand approach becomes equally more relevant.
2. Value creation can be reflected in the results produced by the arm's length principle but the two do not always correlate.
3. The definition of intangibles should not be tax driven, if one aims at a balanced taxation of intangible generated income.
4. Developing countries appear to grossly underestimate the positive effects of FDI that is attracted by potential location savings. Such effects can be e.g. employment, know-how and improved infrastructure which by far exceed a possible tax revenue.
5. While efforts are being made at the national level but also internationally in order to tax the digital economy, the legislator will always lag behind.
6. The arm's length principle is not part of the *Acquis Communautaire*.
7. Business models have remained the same. Just because they are operating online did not alter them at the core and therefore the issues regarding taxation remain in principle the same.
8. A carbon tax already exists, namely VAT.
9. An essential addition to the comparative legal research presented could be achieved by considering the United Nations Practical Manual on Transfer Pricing for Developing Countries and legislation which has been based on it.