

# Information asymmetries in EU VAT

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Propositions relating to the dissertation

## Information asymmetries in EU VAT

by Frank J.G. Nellen

1. In (EU) VAT, the commercial relation between the supplier and his customer is not seldom frustrated by an unbalanced distribution of tax information dependencies – a circumstance which is at odds with the principle of (fiscal) neutrality.
2. Irrespective of the statutory provisions on VAT liability, the transaction counterpart should *always* be held liable for VAT in case the prudently acting subject of taxation has misapplied VAT due to a tax information asymmetry caused by the intentional misconduct of the former.
3. Taking into account the ambitions of the Regulatory Fitness and Performance Programme (REFIT), it is distinctly objectionable that the EU legislator does not explicitly recognize the tax information position of the taxable person during legislative processes in the field of EU VAT.
4. Even though presumptions (such as those listed in subsection 3a of the VAT Regulation) bypass the provisions of the VAT Directive and may even violate the principles and theoretic ambitions inherent to the system of EU VAT, they should be employed to reduce the likelihood of horizontal tax information asymmetries.
5. To the average taxable person, the CJEU ruling that Member States are not precluded from imposing a fine equal to the amount of the VAT due is at odds with the CJEU ruling that Member States are precluded from imposing a charge resulting in double taxation. Such optic inconsistencies should be avoided, as they erode the acceptance of EU law by the persons and businesses subject to it.
6. The concept of ‘knew or should have known’ constitutes an instrument created by the CJEU to spread VAT responsibilities throughout supply chains; it partly repairs the shortcoming of statutory EU VAT law that the application of VAT is a solitary affair.
7. The extensive body of (CJEU) case law involving situations characterized by a frustrated access to tax information underlines the problematic nature of tax information asymmetries, as well as the practical relevance of this thesis for legislators, scholars, practitioners, judicial experts and businesses (*valorization proposition*).
8. One can consume without understanding the system of VAT, yet one cannot understand the system of VAT without consuming.
9. For both the media and the arts, the lack of a proper quality criterion is just as harmful as censorship.
10. As long as we don’t run out of consumers, the future of VAT looks bright.