

# Information asymmetries in EU VAT

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# Valorization addendum

## 1. WHAT IS THE SOCIETAL AND ECONOMIC RELEVANCE OF THIS THESIS?

The primary research question addressed by this thesis is to what extent tax information asymmetries have and should have (legal) implications for taxable persons (e.g. entrepreneurs) who are held to apply and substantiate EU VAT. The focus of the thesis thus lies on the EU taxation system of VAT, which, translated into national VAT systems, has become a major, irreplaceable contributor to the budgets of the various Member States. The societal and economic relevance of the thesis follows primarily from the circumstance that the research questions relate to a pressing current-day challenge in the field of VAT: the materialization of information asymmetries at the level of the person held to apply VAT. The thesis has established that the materialization of an information asymmetry obstructs the application of VAT in line with the legal requirements. Moreover, an asymmetry may lead to various adversities: double taxation, non-taxation, adverse selection, and accumulation of VAT. In a general sense, information asymmetries within the context of VAT frustrate the neutral and efficient levy of VAT, potentially leading to competitive distortions, to an erosion of budgetary receipts of the Member States, and to increased (administrative) costs associated with taxation. The frustrating effect of information asymmetries constitutes an important justification for research into the causes, consequences, and implications of asymmetries, as well as the remedies that may counter their materialization.

A second comment on the societal and economic relevance relates to the legal basis of EU VAT. The various national VAT systems of the Member States are derived from EU legislation (i.e. the VAT Directive 2006/112/EC). This shared legal basis is directly connected with the EU ambition of achieving and promoting an efficiently functioning internal market within the EU (article 3 TEU; articles 26 and 113 TFEU). Since information asymmetries in the context of VAT occur particularly in cross-border, intra-EU settings, their materialization directly opposes the foundations of the internal market, as well as the social, economic and legal ambitions of the EU institutions. Taking into account their detrimental impact on

the functioning of the internal market, information asymmetries in the context of EU VAT therefore constitute a research subject with a broad, EU-based societal and economic relevance. It is also for this reason that the thesis has explored various remedies which may counter the materialization of information asymmetries and thus mitigate the associated adversities.

## **2. TO WHOM ARE THE RESEARCH RESULTS OF INTEREST?**

The research of this thesis has amongst other provided insight into the legal norms of positive EU VAT law which may cause information asymmetries, as well as the (legal) remedies which carry the potential of countering their materialization. In that regard, the research results can be employed by the various EU and national legislative bodies to achieve better legislation – an ambition which currently is at the forefront of EU policymaking (i.e. following the EU Regulatory Fitness and Performance Programme (REFIT)). The thesis allows EU and national legislative bodies to identify which norms of positive (EU) VAT law are likely to imply information complications for the various parties involved in VAT taxation, and thus to revise them accordingly. Further, the research has discussed various instruments (e.g. impact assessments, stakeholder consultations) which such bodies can employ to promote future lawmaking and reduce the likeliness that legislative products carry the risk of information asymmetries for those who are affected by them.

Besides (EU and national) legislative bodies, there are various other parties and institutions to whom the research results are relevant. The thesis focused on a subject (i.e. information asymmetries in EU VAT, and the associated (legal) implications) which until now has not been systematically addressed by scholars and academics in the legal field. Thus, the thesis provides these scholars and academics with a broad yet detailed foundation for further research into the phenomenon of information asymmetries – both in the field of EU VAT, and potentially beyond (e.g. in relation to other taxes). In fact, the thesis contains various recommendations for future research (section 20.4).

Further, since the thesis has explored positive (EU) VAT law and has identified the various legal norms which imply a more than insignificant risk of information asymmetries, the outcomes of the research are of particular interest for entrepreneurs as well. To the extent that they are confronted with (EU) VAT, entrepreneurs will be better able to establish which of their activities and transactions are likely to maneuver them into a tax position which is susceptible to frustrations caused by information asymmetries. Additionally, the thesis has discussed various

options which such entrepreneurs may employ to mitigate the risk of information asymmetries, or, alternatively, to avoid any (legal) implications.

Finally, the research outcomes are also relevant for VAT practitioners and litigation experts. The thesis has devoted particular attention to the question to what extent information asymmetries have and should have legal implications for taxable persons (e.g. entrepreneurs) who are held to apply and substantiate VAT. As such, the research relates to the judicial weighing of the interests of taxable persons on the one hand, and the interests of the national public authorities on the other. The various factors of influence (e.g. legal principles) which were identified by the thesis, and which should be considered when establishing the legal implications of asymmetries (e.g. material VAT corrections, sanctions), constitute a comprehensible theoretic foundation for VAT practitioners and litigation experts whenever they are engaged in arbitration and appeal procedures, or court proceedings.

### **3. INTO WHICH CONCRETE PRODUCTS, SERVICES, PROCESSES, ACTIVITIES OR COMMERCIAL ACTIVITIES WILL THE RESEARCH RESULTS BE TRANSLATED?**

Firstly, the author's intention is to adapt the thesis into commercial edition, which is to be marketed by an internationally operating publishing house. This allows the research results to be properly distributed amongst the various interest groups mentioned under point (2) above (i.e. legislative bodies, VAT practitioners, (EU) VAT scholars, litigation experts). By means of the commercial edition, the author intends to maximize the (potential) societal, economic and academic impact and relevance of the research results.

Further, the thesis contains various recommendations addressed to legislative bodies, which they can employ to improve the quality of (EU) VAT legislation. Even though the ultimate decision to translate the research results into concrete legislative adaptations or revisions of currently existing (national) VAT systems remains at the faculty of these legislative bodies, the thesis has provided them with the necessary instruments (in the form of various legal arguments and recommendations). Similarly, the research results can also be employed by taxable persons (e.g. entrepreneurs) to identify which of their activities are subject to a more than negligible risk of information asymmetries. Subsequently, they can adjust their information procurement procedures, and anticipate on potential information complications. By means of the research results, the thesis allows both legislative bodies and taxable persons to reduce the materialization of information asymmetries in practice – and thus mitigate the risks of double taxation, non-taxation, accumulation of VAT and adverse selection.

Finally, the research results of the thesis provide numerous insights, recommendations and legal arguments to VAT practitioners and litigation experts, which these parties can use to improve the quality of their professional output. More specifically, by addressing the question to what extent asymmetries have and should have legal implications (e.g. VAT corrections, sanctions) for the parties involved in VAT taxation, the thesis allows VAT practitioners and litigation experts to work towards a fair and more precise weighing of the interests of the taxable persons (e.g. entrepreneurs) and those of the national public authorities. For further reading on the practical usefulness of the research results, the reader can refer to Chapter 20 of the thesis.

#### **4. TO WHAT DEGREE CAN THE RESEARCH RESULTS BE CALLED INNOVATIVE IN RESPECT TO THE EXISTING RANGE OF PRODUCTS, SERVICES, PROCESSES AND COMMERCIAL ACTIVITIES?**

The research results are innovative because the phenomenon of information asymmetries in the context of (EU) VAT has not yet been addressed in a structural or in-depth fashion – even though the materialization of asymmetries in practice concerns a pressing current-day challenge for taxable persons (e.g. entrepreneurs) and authorities alike. The thesis has unveiled that tax information asymmetries are the result of existing, yet up to now unidentified imbalances in the legal framework of EU VAT. Thus, the subject matter of the thesis can be regarded as a novel research area, which relates to largely unexplored aspects of the current-day legal (EU) VAT systems. The underlying research processes have therefore led to new insights, recommendations and conclusions which, in conjunction with each other, contribute to resolving or preventing information asymmetries and the associated adversities (i.e. double taxation, non-taxation, accumulation of VAT, and adverse selection).

#### **5. HOW WILL THIS/THESE PLAN(S) FOR VALORIZATION BE SHAPED?**

As addressed in point (3) above, the author intends to distribute the research results as widely as possible. One intended initiative to this end is the publication of a commercial edition through an internationally operating professional publisher. In addition, the author will get proactively involved in (EU) VAT focused academic gatherings such as seminars, conferences and symposia. These initiatives will