



International Fiscal Association



## IFA 74th Annual Congress Berlin, Germany

### OUTLINE

#### THE NEUTRALITY PRINCIPLE IN VAT – PRACTICAL ISSUES

**SEMINAR I | Thursday, 8 September 2022 | 13.30 – 15.30**

##### **Chair**

Joachim Englisch (Germany)

##### **Panel Members**

Rosemary Anderson (Canada)

Rita De La Feria (UK)

Charlène Herbain (EU)

Tomasz Michalik (Poland)

##### **Secretary**

Lily Zechner (Austria)



It is proposed that the above topics are addressed, not by a sequence of presentations by each of the panelists, but rather as a scripted discussion with frequently changing speakers. This could also include some participation of the audience by way of voting on controversial issues at various points during the session. Against this background, the following outline is proposed:

### ***I. Introduction***

Defining the concept of VAT neutrality, and its two main categories: (1) relief of taxable business activities from any input VAT, and (2) neutrality of competition with respect to substitutable products. Extension of the second concept, for the purpose of the panel discussion, to distortions caused by differences in procedures and compliance costs.

Introductory session will altogether be kept very short.

### ***II. Input VAT deduction and refund***

Analysis of existing legal complexities surrounding the claim of an input VAT deduction / credit. Special attention will be given to the treatment of holding companies, the financial sector, and exporters. We will furthermore discuss the restrictions and legal uncertainty regarding the deduction of input VAT for business expenditure that is related to private consumption.

We will be addressing the difficulties faced by businesses in certain jurisdictions in obtaining an input VAT refund, affecting either their cash-flow or even profits. This will cover, in particular, the legal and factual deficiencies of cross-border refund procedures.

All of the above points for discussion will also include a presentation of best practices that avoid or mitigate the issues.

- ⇒ 3 dimensions: legal issues related to substantive law, legal issues that are procedural (anti-fraud) and practical issues that are procedural (developing countries)
- ⇒ Ideas for topics: complexities of pro-rata calculations (EU issue?) or examples around the world of how to deal with high-risk input VAT; expenditures outside of deductibility; some have a case-by-case approach or flat-rate or exclusion of deduction (eg leasing, hotels, restaurant)

### ***III. Equality of competition***

Laying the necessary theoretical foundations: We will discuss how competition between suppliers / products and services should be defined and determined for the purpose of the VAT neutrality principle; should this be based on a market analysis and empirical research? Does competitive neutrality constitute a non-negotiable element of any VAT system, or should on override be permitted with respect to certain competing objectives of public policy?

Special consideration will then be given to the risk of distortions of competition caused by differentiated VAT rates (reduced and/or zero rates) in pursuit of for extra-fiscal policy objectives.

- ⇒ Ideas: discuss, i.a., qualification problems; include a poll with pictures of products: are Jaffa cakes cakes or biscuits? and then tell audience what the court decided

We will furthermore discuss how anti-fraud measures impair VAT neutrality for honest businesses, especially in the context of cross-border transactions.

Another focal point will be how existing or proposed VAT regimes and VAT collection mechanisms that ring-fence the platform economy or certain sectors of it risk to undermine channel neutrality.

The same issue will furthermore be addressed with respect to digital supplies in comparison to more traditional provision of similar services.

- ⇒ Ideas: not necessarily EU as starting point; small/non-established traders that are non-compliant; solution: involving platforms in collection of VAT (deemed supplier models); issues of channel neutrality; issue of input VAT deduction (previously not taxable, now taxable, should they get VAT deduction?); EU experience is (an important) one of several

#### **IV. Q&A**

We will try to reserve 5-10 minutes at the end for audience questions and / or open panel discussion