



Assistance in the Collection of Taxes

Concepts, Principles and Swiss Perspectives on
Cross-Border Enforcement and Securing of Tax Claims



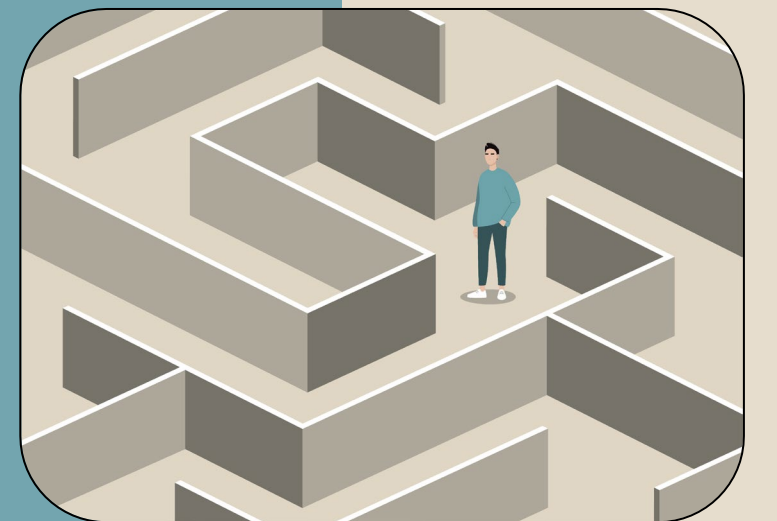
Relevance? – For Example the Future Swiss-EU Collection Process of VAT!

At first glance, cross-border tax collection procedures seem to have limited relevance:

- Provisions regarding the mutual assistance for the assistance in the collection of taxes are relatively rare.¹
- Swiss negotiation practice does not include this!

However, reality is more complex:

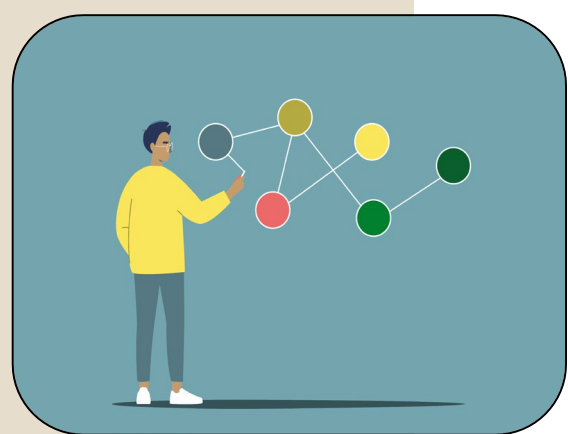
- The commitment to the principle of worldwide taxation² implies that duly assessed and enforceable taxes under domestic law should not be hindered by territorial boundaries.
- Reports indicate that the EU, led by Spain, is urging Switzerland to assist in enforcing tax claims for EU citizens. Switzerland has expressed openness to an agreement but limited to VAT claims.³



Scope and Objective? – Material Universality vs. Formal Territoriality

Cross-border tax matters – especially in the collection process – navigate the tension between material universality and formal territoriality.⁴ Territoriality, however, has different interpretations: common law traditions invoke the “Revenue Rule” while other jurisdictions frame the issue as a sovereignty concern or a matter of public policy. Any research must start here and attempt to find a common denominator for this problem.

- Tax collection assistance involves constitutional, international, and legal policy considerations. The study systematically examines prerequisites, limitations, and viable frameworks, with a focus on Swiss legal challenges.
- Currently, no comprehensive academic work addresses Switzerland's approach. This thesis aims to lay the groundwork for when Switzerland moves beyond the “if” and toward the “how” of implementation.
- Additionally, the thesis will explore how Switzerland's domestic legal principles – particularly regarding constitutional and international law – may contribute to the broader international tax discourse.



Research Questions? – Five Core Legal Issues (one overarching / four specific):

1.

Analysis of a **principle of non-enforceability** in cross-border Tax collection (i.e. examining the origins and justification of a general non-enforcement principle in tax law. Contextualisation of related legal concepts within Swiss and international law, including territoriality, the Revenue Rule, sovereignty, “ordre public” etc.).



2.

Transferability of the practice of information exchange to the provisions of assistance in the tax collection procedure.

3.

Investigating and applying broader **non-taxation based principles** to the procedure of assistance in tax collection.

4.

Analyzing **Conflicts Between Administrative Assistance Frameworks** (e.g. double tax treaties & the Multilateral Convention on Mutual Administrative Assistance (“MAC”).

5.

The broader understanding of the role of double tax agreements as **exclusively restrictive instruments** as well as their applicability to other treaties and, more general, whether a **multilateral or a bilateral approach** would be preferable.



Implications to Treaty Interpretation:

- Scope and application of a principle of non-enforceability to key legal sources such as article 27 OECD-MC and articles 11-16 of the MAC.
- Transferability of tendencies from different parts of the legal framework of administrative assistance in taxation (i.e.: expansive interpretation as derived from information exchange? primacy of autonomous interpretation according to, e.g., article 3[2] MAC?)
- Transferability of principles and jurisprudence from non-taxation issues (e.g. from the framework of the assistance in collecting social security contributions).
- Differing results in double tax treaties and other treaties (e.g. when article 3[2] MAC and article 3[2] OECD are both applicable simultaneously).

References:

- ¹ E.g., DOURADO ANA PAULA, Art. 27 OECD-MC: Assistance in the Collection of Taxes, in: Reimer, Rust (Eds.), Klaus Vogel on Double Taxation, n. 2.
- ² LANG MICHAEL, Überlegungen zur österreichischen DBA-Politik, SWI 2012, 110; DOURADO, Art. 27 OECD-MA, n. 8 et seq.
- ³ LAMER ELODIE, EU Reports Partial Satisfaction in Update to Swiss Tax Deal, Tax Notes International 2025, 475; NZZ of 10.11.2024, “Geld her! Die EU setzt die Schweiz mit neuen finanziellen Forderungen unter Druck: Brüssel verlangt, dass die Eidgenossenschaft für EU-Länder Steuern eintreibt”, 11.
- ⁴ E.g., CAVELTI LUCIUS, International Tax Cooperation, The Sovereignty Conflict between the Residence and the Source Country, Bern 2016, n. 25 et. seqq.; MEICKMANN TILL, Verfahrensrechtliche Probleme bei der Besteuerung grenzüberschreitender Sachverhalte, IStR 2014, 591.