

Abstract

When it comes to determining the jurisdictional reach of VAT two principles are used by the OECD, EU policy makers and scholars, namely, the origin principle and the destination principle. These principles can mean different things. One problem is that different constructions thereof can result in confusion in the communication between legal actors and, more importantly – in different legal outcomes. Another legal issue is whether the origin and destination principles have a coercive effect. In particular, the OECD considers the destination principle to be an ‘international norm’ that is ‘sanctioned’ by WTO rules. However, is it really so? Does the WTO compel its Members to apply the destination principle or is it a matter of choice in furtherance of the intention to achieve neutrality in international trade?

The aim of this thesis is to bring clarity to the understanding of the origin and destination principles and to prompt policy makers to be more accurate in their use of terminology when drafting legislation. In pursuit of this objective, these principles are studied in three international legal frameworks, namely, the WTO legal order, the OECD framework and the EU legal order. The study also addresses the question of their legal status in each of the selected legal frameworks. Furthermore, an evaluation is undertaken of the origin and destination principles from the perspective of the legal character of VAT as a tax on consumption. It is claimed in this thesis that a consumption-type VAT may also be based on the origin principle subject to certain conditions.

Also addressed is the issue of the allocation of VAT in the European Union. The results of this study demonstrate that the different derogations available to the Member States with regard to the current EU VAT system make it extremely complex and fragmented. Furthermore, the proposed future EU VAT system also remains hybrid, i.e. it is based on both the origin and destination principles. At the end of the thesis, conclusions are presented regarding which of the two principles is preferable for the allocation of VAT in the internal market of the European Union.

This thesis should be of use for policy makers and other legal actors seeking to develop a deeper understanding of the origin and destination principles and their application in the internal market of the European Union.