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"Abuse of Composite Supply Concept in VAT Law Application in Poland"

The research behind this study examines the line of decisions issued by courts and tax authorities in terms of their consistency and predictability in the area of "composite supply". Composite supply does not have any statutory definition and is interpreted based on its linguistic sense, according to the standard language dictionary, as well as using the history of tax law application. From the perspective of VAT, the key consequence of assuming the composite supply for a taxable person or by a tax authority is taxation of all ancillary supplies using the taxation rules that apply to the principal supply, including a specific VAT rate, the choice of the place of supply, the taxable person, and other key issues. According to the author, the research has proved that the VAT regulations related to the composite supply had not been applied in Poland in a uniform way. Court decisions and rulings of tax authorities are often hard to predict, while the same CJEU judgments are used to draw quite contradicting conclusions. This issue concerns especially those decisions where CJEU gives guidelines for the application of the composite supply in view of VAT regulations. Both taxable persons as well as tax authorities use the CJEU decisions as a reference when trying to use a single VAT rate to different supply events. The choice of taxation is often driven by the state policy – in the case of tax authorities, or individual preferences and expectations – in the case of businesses (e.g. no tax deduction option), while others simply want to optimise their tax burden. This study analyses certain CJEU decisions and shows that all Member States suffer from the issue of non-uniform rules of taxation of all goods/services that a business supplies within a single project. The study also analyses court decisions issued in different legal systems of certain Member States.

The author attempts to demonstrate that the composite supply definition could be set on the domestic level insofar as it remains compliant with the line of CJEU decisions. Today, the Community regulations lack such definition that the respective Member States could implement themselves. None of the other Member States has decided to draw such definition and the Polish parliament could set the benchmark for them or for the European Commission to follow up when recommending changes to the community-level VAT regulations. The author has taken this opportunity and formulated himself the definitions of *composite supply* as well as *principal supply*. The recommended definitions are neither overly broad (to prevent contradicting decisions in the future) nor too casuistic (to ensure their relevance in the changing technology and environment). Drawing from experience, the author took into consideration also the principle of separate taxation of each service/good according to VAT regulations, with *composite supply* treated rather as an exemption from that principle.