



Taxing the Digital Economy: CIT and VAT

RITA DE LA FERIA

Professor of Tax Law, University of Leeds | Global Tax 50 2015 and 2016 |
Outstanding Woman in Tax 2016

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I. General Considerations on Taxing the Digital Economy

- I. What is the digital economy?
- II. Traditional vs modern tax systems
- III. Reactions to challenges

II. Substantive Tax Rules

- I. CIT vs VAT
- II. CIT: anti-avoidance measures
- III. VAT: new paradigm

III. Tax Enforcement

- I. New enforcement methods
- II. Understanding Fraud Phenomenon
- III. Crime Management in Taxation

IV. Are Tax Rules Prepared for the Digital Economy?



GENERAL CONSIDERATIONS ON TAXING THE DIGITAL ECONOMY



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Power to Tax

Substantive Jurisdiction

Legitimacy to tax, i.e. a connection between what is being taxed and the country imposing the tax that is sufficiently strong to legitimise that tax

Enforcement Jurisdiction

Ability to tax, i.e. whether the country has effective legal and implementing means of collecting the proposed tax

GENERAL CONSIDERATIONS ON TAXING THE DIGITAL ECONOMY



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Traditional tax systems

- Territorial and physical
- Clarity on substantive and enforcement jurisdiction to tax: residence country and source country

Modern tax systems?

- Globalised and digital
- Unclear substantive and **enforcement** jurisdiction to tax: mobility of both residence and source



Reaction to Challenges

CIT

VAT

Protection
of Status
Quo

External Pressures

Protecting
Revenues

Internal Pressures

Position of
OECD and
G20 members

Budget deficit
and austerity
measures

Media
attention and
public anger
against MNE

NGOs and tax
lobbying
groups

Revenue
capacity and
business
cycles
imperviousne
ss

Old and
unsuitable
rules

World spread
of VAT

GENERAL CONSIDERATIONS ON TAXING THE DIGITAL ECONOMY



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G20 / OECD / EU Reform Proposals

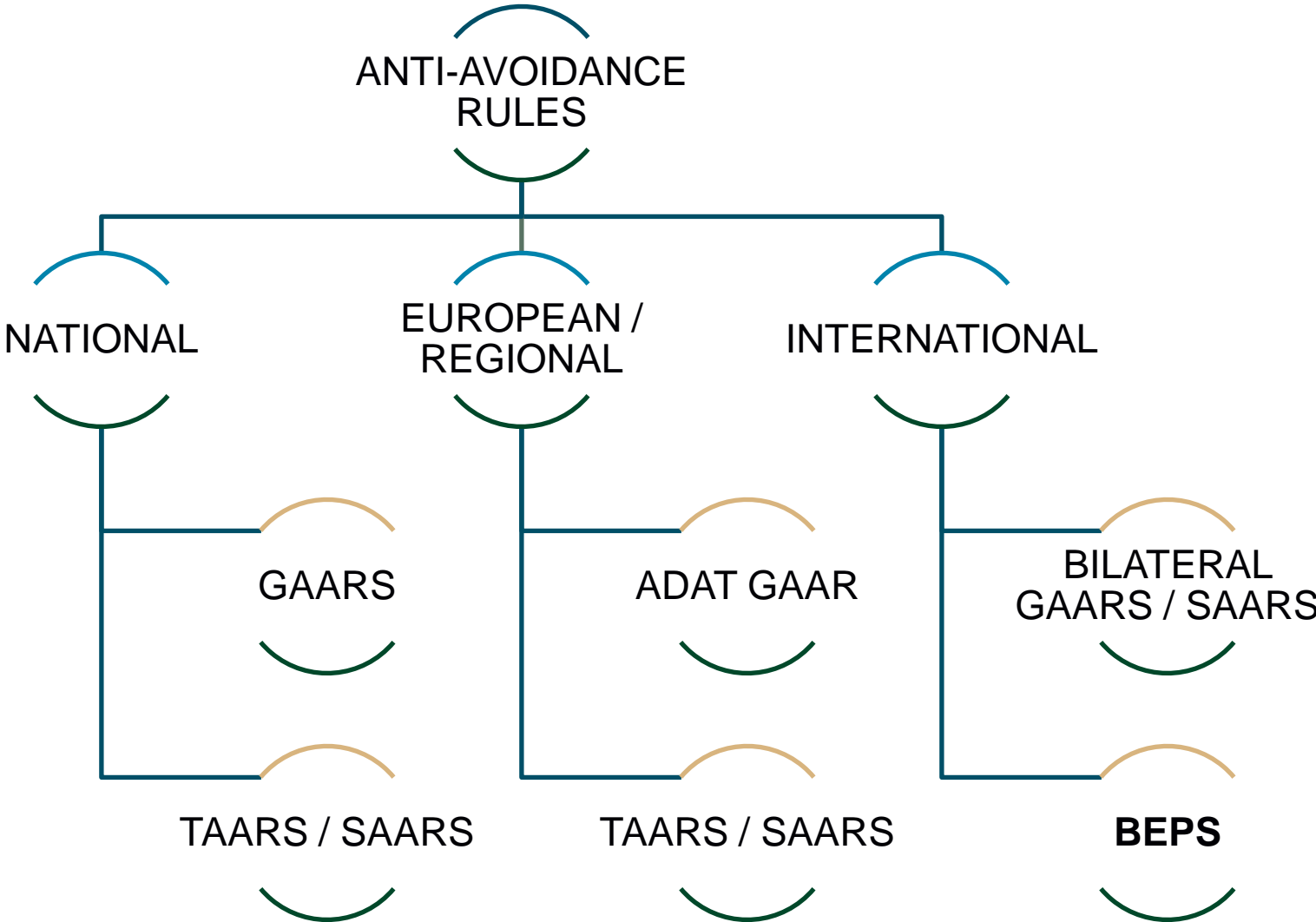
CIT

- Conservative approach
- Maintaining taxation at country of source and residence, with anti-avoidance rules

VAT

- Bold approach
- Moving to full taxation at country of destination

SUBSTANTIVE TAX RULES: CIT





CRITERIA TO MAXIMISE TOTAL WELFARE

MINIMUM DISTORTION TO ECONOMIC BEHAVIOUR

- to identify a location of taxation which creates minimum distortion to the economic behaviour of multinational companies, to the ownership of assets and to competition between companies selling in the same market; and

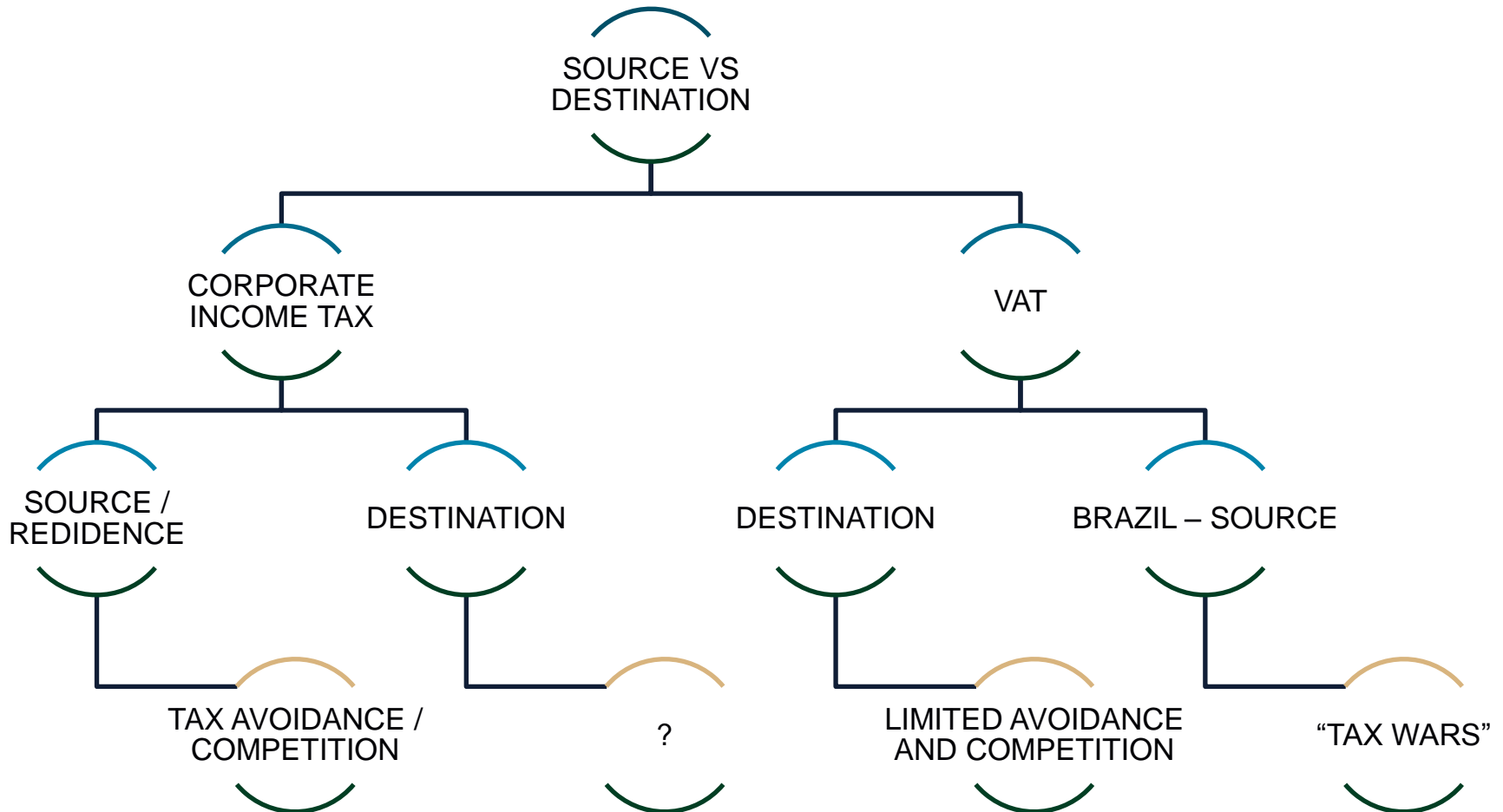
JURISDICTION TO TAX

- to identify a location of taxation that has jurisdiction to tax, from both a substantive perspective, and an enforcement perspective (legitimacy to tax, and possible to enforce taxation)

SUBSTANTIVE TAX RULES: CIT VS VAT



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DESTINATION-BASED CORPORATE TAX

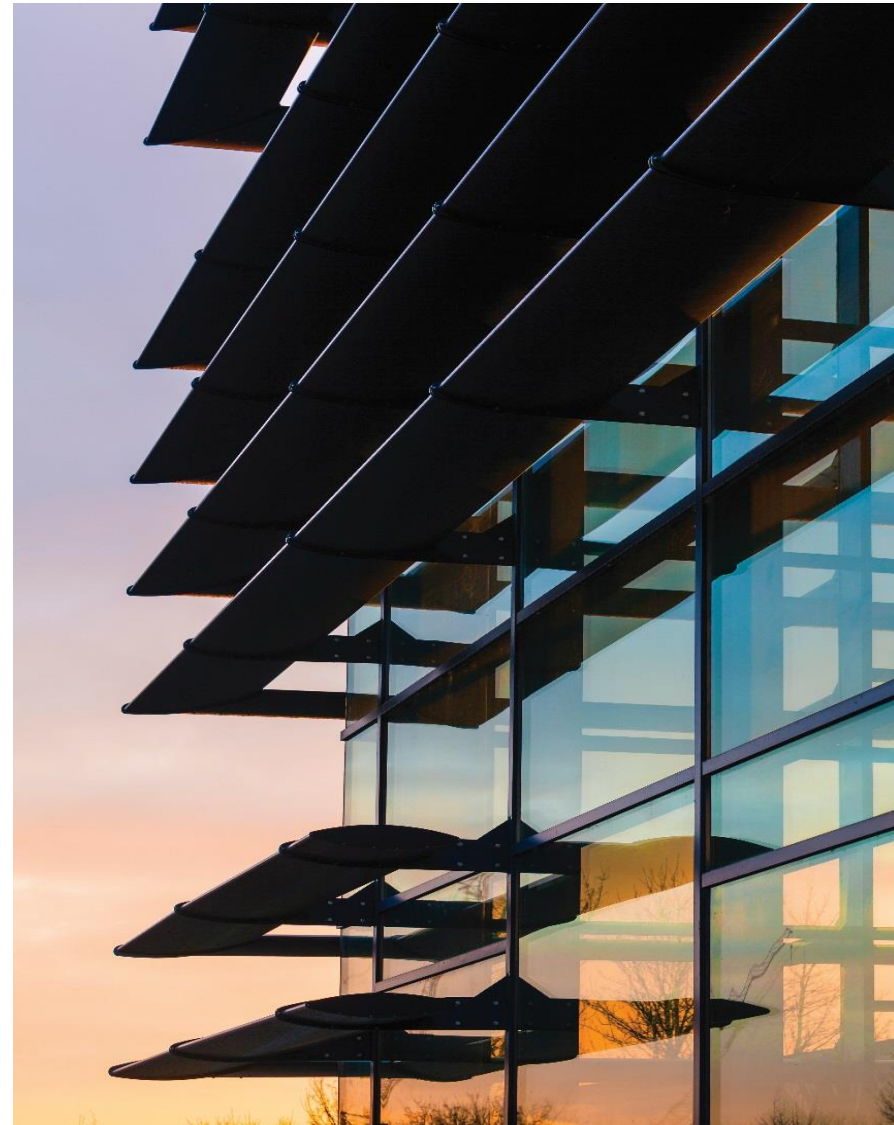
Legitimacy Considerations

- Is connection sufficiently strong to legitimise taxing rights?
- Are sales not the real origin of corporate income?
- Recent tax scandals involving Starbucks, Amazon or Google highlight significance of this connection
- Not to say that destination is more legitimate than source or residence, but as legitimate as

SUBSTANTIVE TAX RULES



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New Enforcement Methods

New Technologies

Enforcement
Collaboration

Behavioural
Science

Data
Gathering
and Sharing

Electronic
Invoicing

Data
Warehouses

Automatic
exchange of
information

Joint
audits

One-stop
shops

Nudges

Incentive
packages



FRAUD AS REVENUE LOSS

CIT

- (1) Tax Amnesties

- (1) Penalties
- (2) Nudges

VAT

- (1) Third-party liability
- (2) Formalism
- (3) Relaxed enforcement on imports

ENFORCEMENT

From crime control to
crime management

Rationale for shift

- Difficulties combating fraud, so “dispense with the problems it poses”
- Costs of prosecuting high-profile cases
- Public finance difficulties AND public perception of companies has resulted in higher tolerance of dubious practices

Evidence for shift

- Excessive formalism, resulting in denial of tax rights
- Size of penalties beyond what would be reasonable as deterrent
- Proliferation of tax amnesties
- Responsibilisation of third parties, even if only remotely connected with fraudster

Risks of shift

- Concerns over public finances used as justification for dismissal of rule of law
- Eliminating revenue costs of fraud deters combat to fraud, leaving other costs untouched



Are Tax Rules Prepared for the Digital Economy?

(P/)CIT

VAT

SUBSTANTIVE
RULES

No.

Ongoing work will not be sufficient to address existing limitations.

ENFORCEMENT

Not yet.

Progress, but focus on revenue loss only is limiting further progress.

SUBSTANTIVE
RULES

Yes.

Great progress achieved in last few years

ENFORCEMENT

Not yet.

Progress, but focus on revenue loss only is limiting further progress.



THANK YOU

7th

in the UK for
Law

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University of
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