



LUND UNIVERSITY

The Treatment of Insurance in European VAT - a legal study with a comparative analysis of the treatment of insurance in GST of New Zealand and Australia

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Research questions and purpose:



1. Formulation of statements de lege lata: What is the current treatment of insurance under EU VAT Directive?

2. Formulation of statements de lege ferenda: Should the legal solutions related to the treatment of insurance adopted in New Zealand and Australia constitute a system design recommendation for EU?



Problem:

Under Article 135(1)(a) of the VAT Directive, Member States must exempt “insurance and reinsurance transactions, including related services performed by insurance brokers and insurance agents”.

- Rationale? – insurance doesn’t easily fit credit-invoice indirect tax on consumption expenditure.

- Result? – tax accumulation, over-taxation of B2B transaction and under-taxation of B2C transactions, incentive to vertical integration, difficulties in defining the scope of exemption.

- System design alternative? – taxing the insurer’s margin (difference between premiums and claim payments) as in NZ or Australian GST?

Method:

- Traditional legal method with critical approach.

- Including comparative analysis.

- Benchmark for evaluation:

- Legal character of the VAT system.

- Coherence of the system and consistency with underlying principles.

- Special role of the principle of neutrality?

