When we apply the rules on State aids to national tax measures, the subject turns into a difficult relation of powers between European Union and Member States. State aid rules are a part of the rules on competition, a competence of European Union, whereas direct tax rules is one of the Member State’s exclusive competences. So, when a tax measure is qualified as a State aid, the distribution of competences between European Union and Member States is modified.

The aim of the Thesis is to analyse the scope of the State aid concept when it is applied to tax measures, making an interpretation of the four elements needed to qualify a measure as a State aid.

**STATE AIDS AND TAX MEASURES**

European Union

Rules on Competition

Aids granted by states

State aid concept ...

... applied to national tax measures.

Tax measures

Direct tax rules

Member States

The rules of State aids are a concretion of European fundamental freedoms, one of the most important legal sources in European Law.

Competition Policy is a competence of European Union. The concept of “competition” or “distortion of the competition” appears in both Sections of the Title VII of the Treaty on the functioning of the European Union, Chapter I, related to Rules on competition.

The compatibility of State aids is an independent question of the limits of the State aid concept.

A tax measure has to …

1st distort the competition and affect the trade between Member States
2nd be granted through State resources
3rd create an advantage to certain undertakings
4th be a selective measure

… to be qualified as a State aid.

Tax measures can be founded in principles of tax justice or in other principles of the Constitution. But the purpose of protection of other values than those of tax justice cannot go beyond fiscal purpose.

There are some contributions to the States that are non-fiscal incomes.

Member States have some constitutional principles as, in the case of Spanish Constitution, the tax justice principles and the principle of vertical distribution of the financial power.