

Controversial issues of the Spanish Digital Services Tax

Joshua Pownall (PhD student at the University of Barcelona and tax litigation attorney at Cuatrecasas)

Supervisors: Prof. Dr. José-Andrés Rozas Valdés, Prof. Dr. Maria Dolors Torregrosa Carné

Context

The processes of globalization and digitalization of the economy have changed the way in which international transactions are carried out consequently rendering the international tax system, designed nearly a century ago, obsolete.

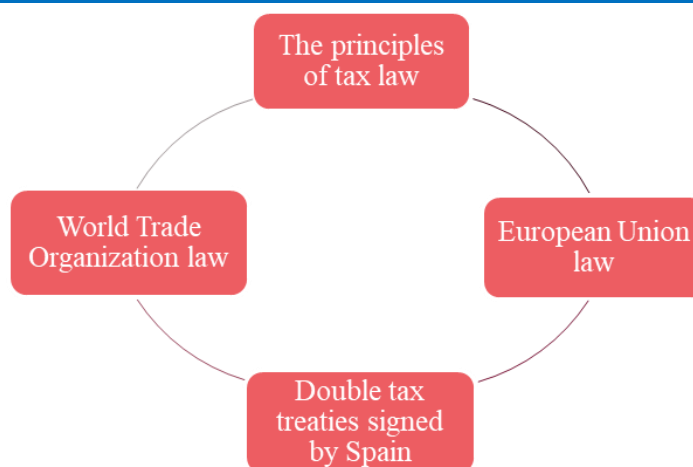
In this scenario, countries like Spain have committed themselves to act unilaterally signing domestic digital services taxes (DST) into law. The Spanish DST entered into force on January 16, 2021.

Research question

Is the Spanish DST contrary to law?

Hypothesis

THE SPANISH DST
INFRINGES ON:



Methodology

1 A legal analysis will be carried out to determine if the **Spanish DST is contrary to international law, European Union law, and Spanish constitutional law**. Also, special attention will be given to the developments of the **OECD Pillar One**.

2 Possible litigation strategies will be discussed from a domestic and European Union law point of view for taxpayers affected by this tax, such as:

- ✓ The means to challenge the **self-assessments** (administrative and judicial).
- ✓ The possibility of submitting a **preliminary ruling before the Court of Justice of the European Union**.
- ✓ The possibility of the **European Commission initiating an infringement proceeding against Spain** for violation of European Union law.
- ✓ The **liability of the State as legislature** for breaches of the law.