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The Tax Understanding of Blockchain

This PhD thesis aims to analyze the way the State could tax the blockchain economy

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Bitcoin Ethereum NFT DAO ICO Utility Token Security token

And tomorrow certainly much more different applications…

Blockchain is the "internet of value"[1]. It first began with bitcoin but there is now an impressive diversification of applications: crypto assets, utility token, decentralized autonomous organizations, non-fungible tokens, initial coin offerings, nobody can predict which one will be the next.

Problem

States try to characterize in a uniform way all crypto assets or enshrine new law for all blockchain's innovations.
Consequences: normative inflation, normative complexification, legal uncertainty, and lack of tax neutrality.

Solution proposed: new paradigm
Characterization of the blockchain system itself

Identification of a singularity: all intangible assets need a legal recognition to exist (i.e., Patents, stocks, shares, obligations, etc.). Crypto are intangible assets which didn't need any legal recognition to appear and be protected for itself.
Singularity cause: the blockchain is a particular legal system not national and not territorial, functioning with technological rules written into computer code. It is a "technological legal system".

Consequences: there might be diverse crypto assets like there is diverse intangible assets. To preserve legal certainty and tax neutrality it is necessary to assimilate each type of crypto asset to the characterization to which it most resembles in national law. Hence States law should characterize the legal system itself and apply a regime which is a method called "assimilation" to characterize each blockchain's asset and entity.

Law proposals

A legal characterization:

"A technological legal system is, a whole, structured as a system, that establish a technological law governing the existence and functioning of a human community, whose membership of each member has been freely consented to.
The technological law is derived from a freely accessible computer code, operating without a central control body, which constrains the behaviour of the members of the community in their interactions within the system and whose modification presupposes the meeting of previously established conditions known by all the members"[2]

A legal regime:

"For the application of this Code[3]*, the tax regime applicable to an operation involving a technological law entity is determined by identifying with regard to all the characteristics of this entity and the law which governs its constitution and operation, the type of entity governed by French law*[4] *to which it should be assimilated"*

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[1] Blockchain is an information technology. It therefore has uses other than value, such as recording evidence. However, it is the internet of value aspect of blockchain that raises questions for tax law, not its possible use for recording various information such as diplomas or intellectual property rights.
[2] The legal characterization doesn't refer to the blockchain as being "technology neutral". It is therefore still relevant to a similar phenomenon arises because of another technology.
[3] It designs the French Tax Code
[4] This part of the definition should be adapted in case of use of the results by other countries.