VALUE-ADDED TAX ON SERVICES IN THE EUROPEAN UNION AND TURKISH LAW: A COMPARATIVE ANALYSIS

EUROPEAN UNION TAX LAW

Reverse Charge Mechanism

- «Supply of services shall mean any transaction which does not constitute a supply of goods» (Article 24 of Council Directive 2006/112/EC)
- GENERAL RULE: The place of supply is the place where the supplier of the services is established (the supplier’s permanent address, or where the supplier usually resides etc.) (Article 43 of Council Directive 2006/112/EC) Too many exceptions!
- Case by case determined by the CJEU. (Risk of judicial activism?)

TURKISH TAX LAW

Joint Liability (Withholding Mechanism)

- The notion of "supply of services" is not defined under tax law.
- Place of supply rules are designated via a General Communiqué (issues related to the principle of legality and the rule of law)

CJEU, ECLI:EU:C:2017:981: Uber provides transportation services, not technology. Subject to VAT?
France, Labor Chamber of the Cour de Cassation, March 4, 2020, No 19-13.316: Uber drivers are employees, not subject to VAT.

Prevention of Non Taxation and Tax Avoidance

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Goods: Transferable Assets
Services: Non-Transferable Assets
What if those two are combined? Ex: Hardware and