

ISSUES OF INTERNATIONAL DOUBLE TAXATION, IN PARTICULAR TO THE ISSUES OF EMPLOYMENT

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ABSTRACT: *European integration, the accession of member states to the European Union, required the harmonization of tax regulations. The unity of the Union has been based on the completion of the single internal market, which is important for ensuring the free movement of persons. Although the right to tax is fundamentally vested in the state, there are already attempts at legal harmonization in the founding treaties on tax issues. Taxation is not only governed by national law, in addition to bilateral tax conventions, the institution of double taxation is significant in terms of employment. The problem of double taxation of income can be traced back to the recognition of the sovereignty of the Member States. Double taxation is a fundamental problem of international tax law, which represents a conflict between the tax laws of states, which requires increased attention when employed in a Member State other than the State of residence for tax purposes.*

KEYWORDS: *employment, double taxation of incomes, solution of the international double taxation, international tax law*

JEL Code: *K 34*

1. INTRODUCTION

The examination of the legal relations for domestic and international employment is not new. The following study focuses on tax and financial law issues related to employment, special regard to the cross-border activity. In order to do this, in our opinion, it is absolutely necessary to examine domestic and international financial and tax law issues, including certain social security issues related to taxation and the payment of contributions. The research of the topic is the first step of a complex analysis, which provides a starting point for examining the topic of working in several states and related double taxation.

In order to elaborate on the topic, it is essential to deal briefly with the definition of the situation of financial law and tax law in the legal system. Financial law is a law of public law under which the state acts with the powers of the public authority to protect the financial interests of the state. The presence and intervention of the state stems from the

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community nature of financial law, in order to satisfy public needs, financing is based on the norms of financial law. It is the performance of the public task itself that justifies the separation of the financial and tax area from other economic sectors and areas. The financial legal norm creates a legal relationship, which is a legal relationship between the state and the property and financial issues of the state and state bodies. Financial law creates financial institutions and the financial system of society. As financial law, as a public law, essentially serves the needs and interests of society as a whole, it typically operates with non-derogatory mandatory rules, disposition can be said to be exceptional, as the protection of the state's financial and economic interests takes precedence over private interests. (KERTÉSZ, 2009) Financial law is a system of legal instruments for the enforcement of the will of the state covering not only the revenue-designating and centralizing function of the State, but also its use and the legal instruments controlling it. (SZILOVICS, 2018)

It is undergoing a constant change in financial law, the reason for which is rooted in the system of goals and means of financial law itself. (ERDŐS, 2004) The structure and conditions of financial rights are fundamentally determined by each economic policy decision, the emergence and change of financing needs also induces a constant change in financial law, at the same time, changes in financial law also have an impact on economic processes as a kind of interactive rule. The dynamics of economic change and financial law are constantly interacting. Not only the state of the economy, but also historical events, political orientation¹, and religious affiliation can determine the structure of financial law², however, a number of national specificities can also be observed.

For the purposes of this study, a number of areas of relative autonomy in financial law have emerged, such as the law of public finances including tax law, as well as international and European tax law, tax law, banking law, and municipal finance law, customs law, budget law, stock market law. A common feature is that the state acts in a mandatory manner in certain areas in order to perform a public task, the rules are cogent and not dispositive, and the rules are parts of the public law, so the regulation is carried out by means of the public law method. In order to fulfill the provision of these public wall data, the state collects funds from the entities under its public authority by developing regulations, from which it ensures the performance of its tasks, operation, and the conditions for its redistribution, allocation and stabilization functions. The state typically collects its revenues through taxes, levies and other public charges.³ The tax is an indirect compensation for the obligations assumed by the state, for the services which the state undertakes as a public service in the interest of the community and on behalf of the community and which it performs for the benefit of the community. It is important that the payment of the tax does not result in direct and mainly unequal compensation from the state, the fulfillment must take place at the macro level. The tax is one of the most important elements of the redistributive function of the state, which is a payment obligation based on legal provisions, however, it can be recovered without direct compensation, using state coercion. It can be seen that the tax is not an optional, non-voluntary contribution,

¹ A characteristic feature of socialist states was the tax exemption of the financial system

² In states that practice Islam, the prohibition on collecting interest under Sharia law is typical (Qur'an 30:39), and Islam does not accept the time value of money or compensating for inflation by collecting interest.

³ Act CXCV of 2011 on the economic stability of Hungary 28.§-38./A §.

the willingness to comply with the law and the tax morale are of great importance. The tax is also emerging as an economic, social and social policy tool, creating a horizontal and vertical link between the elements of the economy. (ERDŐS, 1999) While financial law itself regulates social relations in relation to public finances, tax law is a form of property restriction, embodies an obligation to the state, the relevant legal relationship is established by the state on the basis of a system of rules. Within financial law, the issues of the delimitation of tax law could be discussed at length, but due to the size constraints, the tax and contribution regulations related to work are examined below.

2. EMPLOYMENT - RELATED TAX ISSUES

With regard to Hungary, the most significant domestic regulation related to taxation is the CL Act of 2017 on the order of taxation (hereinafter Art). The law, however, sets out the principles for taxation - the prohibition of abuse of rights, the authenticity clause, the qualification requirement, the taxation of the income covered by the international agreement in Hungary, and the possibility of applying the estimate in case of improper exercise of rights -, sets out the scope of the law and the detailed rules for tax liabilities.⁴

2.1. Tax residence

Within tax relations, we can distinguish two groups of legal relations: the substantive legal relationship and the procedural legal relationship. The substantive legal relationship defines the obligations of the taxable persons - the method and conditions of payment of the tax - the procedural legal relationship is aimed at the control of the fulfillment of taxes and regulates the operation of the authority conducting the control. The subjects of the substantive tax relationship are determined by the financial legislation of the respective state, and an important condition for the present study is that the taxable persons are not exclusively citizens of the given state. - the legal personality of a tax extends to all natural or legal persons who are legally resident in the territory of the country and who are engaged in economic activity there. In view of this, we need to examine the issue of tax residence from the point of view of the investigation. It is recorded in the information publication of the National Tax and Customs Administration: „ residence, or more broadly, tax residence, is a special legal concept that expresses with which state an individual has the closest tax relationship. This concept should not be confused with citizenship, although citizenship can also have an impact on residence.” (National Tax and Custom Administration of Hungary, n.d.).

As a general rule, all income of a domestic taxpayer, that is, both domestic and foreign income, are taxed in the state of residence. So in the country where the individual has tax jurisdiction. Examining all the income of a given taxpayer - regardless of the source of income, the double taxation conventions are an exception, which will be discussed in the next chapter. The issue of tax residence is therefore of paramount importance, given that each tax convention⁵ places the taxpayer 's taxation on the State of residence, covering all

⁴ CL Act of 2017 on the order of taxation

⁵ Bilateral International Tax Conventions for the Avoidance of Double Taxation and the OECD Model Convention for the Avoidance of Double Taxation

income earned by the subject, both domestically and abroad (unlimited taxation)⁶, and separate taxable incomes (dividend), and also includes income from real estate, which is not the subject of this study. Tax residences for individuals are based on the residence principle.

In the light of the above definition given by the tax office, it can be stated that the place of residence of the employee may be an important factor in terms of tax residence, but it is not sufficient to determine residence: this requires a number of other circumstances to be taken into account, and the place of residence to be examined does not always mean the actual place of residence declared.

2.2. Determination of tax residence

The establishment of tax residence has become more important with the accession of Hungary to the European Union, the increase in the number of international conventions and the entry into force of Directive 2004/38 / EC of the European Parliament and of the Council on the free movement of persons. Under the previous paragraph, nationality and declared residence do not automatically lead to tax residence. It will be seen below that the tax legislation decides not on formalities but on the factual circumstances of residence. The Hungarian Personal Income Tax (PIT) Act (Act CXVII of 1995) contains detailed regulations on the determination of residence, a complex test is required to determine residence.⁷ In addition to citizenship, residence in Hungary and the center of vital interests, it is also necessary to examine the usual place of residence.⁸ With regard to foreign residence, Section 3 (3) of the PIT Act provides: *Non - resident natural person: a natural person who is not a resident private individual, and - by way of derogation from point 2 (c) - a person with established legal status who is subject to Section 35 (1) (e) of Act II of 2007 on the Entry and Residence of Third-Country Nationals provided that you have been in Hungary for less than 183 days in any 12-month period, including the day of departure and entry as a whole day.*⁹

The starting point for determining domestic residence is Hungarian citizenship and permanent domestic residence, failing which the center of vital interests¹⁰ and residence of more than 183 days will be decisive in determining residence.

The examination of the interest in existence is perhaps the most complex issue in determining domicile. In doing so, we need to consider a number of factors, including the personal, family and economic relationships of the taxpayer. In terms of personal relationship, the family is the most common aspect of the study, which, however, may raise questions about who qualifies as a family member for tax purposes? An individual may make a statement to this effect, in the absence of a statement, the decision may be made on the basis of public information. The question is whether the connection status set up on a social networking site with the advent of digital technology can be considered public

⁶ An international agreement or reciprocity is an exception to the unlimited tax liability of the residence principle. International treaties are international treaties for the avoidance of double taxation between countries in conflict.

⁷ Act CXVII of 1995 on Personal Income Tax 3. § 2.

⁸ Act CXVII of 1995 3§ (2).

⁹ Act CXVII of 1995 3§ (3).

¹⁰ Center of vital interest: the state with which the individual has the closest personal, family and economic ties, and the place of permanent residence is the place where the individual has settled and actually resides - Act CXVII of 1995 3§ (2)

information in this regard? For children, the age of the children (minority) applies. In terms of regulation, residence may be established beyond marriage by an informal (unregistered cohabitation) relationship, and the child (ren) resulting from this relationship. (DINGELDEY, 2001) With regard to the examination of the economic relationship, it is necessary to determine to which state the individual is more economically attached, in which case all relevant aspects must be taken into account, including property rights, investments. If the center of vital interests cannot be clearly defined on the basis of the above criteria, an examination of habitual residence may help.

If, on the basis of the above conditions, in the case of a non-Hungarian citizen, domestic residence can be established, we must examine whether another state also considers the given person to be competent, and if so, the provisions of double taxation conventions will prevail.

3. INTERNATIONAL TAXATION, TAX LAW CONFLICTS, DOUBLE TAXATION CONFLICT

With the establishment of the European Economic Area, the European Community, NATO membership and the European Union, the dynamics of international economic relations have intensified, working in another state, cross-border work, has become an increasingly common phenomenon with the free movement of persons. Economic integration has taken place on several continents with the aim of creating a common market or customs union in Europe, economic integration has also taken place with the creation of the customs union (European Union, n.d.), which was later followed by the free movement of labor and the flow of assets. This has led to cross-border issues of international tax law which may hinder the development of international economic relations. States' national tax systems are based on complex regulations and in many cases involve derogations. An uniform tax regulation cannot be established at the level of the European Union either, the objectives of the Treaty on the Functioning of the European Union have been formulated in order to approximate tax systems, tax guidelines and recommendations have been issued to implement them. The issue of tax harmonization dates back to the signing of the Treaty establishing the European Coal and Steel Community in 1951, and its development has been affected by a number of conventions, recommendations and directives.¹¹

It is not just the diversity of tax types or the extent to which they differ at national level. Individual regulations have also been developed for each state with regard to exemptions from tax and tax benefits in many cases, these differences lead to significant tax conflicts, such as the application of a lower tax rate, or even significantly higher tax rates - within certain types of tax, similar tax regulations can equally lead to international conflict. (ERDŐS, 2020)

3.1. Double taxation

With regard to the concept of cross-border employment and the free movement of persons, we need to address the issue of double taxation. In the case of double taxation,

¹¹ KUCSMA, Luca - Adójogi harmonizáció az Európai Unió Bírósága döntéseinek tükrében (szakdolgozat) p.7.

two states intend to exercise the right to levy and collect tax on the taxpayer. The phenomenon of tax evasion may also appear on the opposite side. (FÖLDES, 2004)

It has been recognized early on that double taxation is an obstacle to strengthening international relations, at the same time, it reinforces such tax conflicts. „*There is much that is unsatisfactory in existing conditions of taxation, but it is doubtful whether there is any other thing that has given rise to such widespread irritation and annoyance as the particular evil known under the name of double taxation*” – wrote in a study by A. C. Miller on the Convention for the Avoidance of Double Taxation concluded in 1902 between the Austro-Hungarian Monarchy and the Prussian Empire. (MILLER, 1902)

In many cases where an individual takes up employment in the territory of another state, the relationship of international conventions with national law can lead to misunderstandings, which, in the worst case, could have significant consequences. In general, international tax conflicts can result from differences in tax systems, and sometimes from their similarities. (ERDŐS, 1995)

But what is double taxation? Based on the excellent wording of Éva Erdős and Nóra Kiss Lilla: „*Double taxation is a problem arising from the simultaneous application of two principles, namely, when the principle of residence and the principle of source appear simultaneously in relation to the same income of the same taxable person. This means that a person is subject to double taxation on the same income that is taxed in two different states during the same period.*” (ERDŐS Éva, KISS Lilla Nóra, 2020) In parallel, the authors draw attention to another phenomenon: double non-taxation, which may generate not only a political but also a legal problem. (ERDŐS Éva, KISS Lilla Nóra, 2020) The latter problem is also significant because one of the European Union's important objectives is to ensure fair competition between Member States, while avoiding distortions.¹²

Thus, double taxation is, in essence, the taxation of the same income, in the same period, in two States, in respect of the same taxable person, in which both the residence principle and the source principle prevail. The income of a resident taxpayer earned abroad will be taxed abroad because of the principle of withholding tax, on the other hand, income earned abroad is now doubled on the basis of the residence principle. The conflict is therefore the application and conflict of the principle of source and residence between countries.

In order to avoid such and similar international tax conflicts, the conclusion of international bilateral agreements between countries offers a solution, in which the parties, as countries, provide for the State exercising the right to levy or collect tax in the event of a dispute. Another solution is for a supranational authority to rule on the issue of taxation, and the application of the case law of the European Court of Justice also offers an opportunity to resolve the conflict. (ERDŐS, 2007) Although the determination of taxes is often a central element of state sovereignty, the former and the ongoing intergovernmental negotiations also raise questions about the own taxes of the European Union, which are likely to be raised in future discussions. Such a proposal includes the Commission's proposal for a Common Consolidated Corporate Tax Base, that uniform rules for the tax base at EU level would be accompanied by a uniform

¹² TFEU. Article 106. és 107.

tax rate at EU level (CERIONI, 2018), or the emergence of a global minimum tax at the international level.¹³

3.2. International Conventions

As already discussed in the present study, as a general rule, the sovereign and primary right of the States and Member States of the EU to impose taxes, however, different types and rates of tax result in tax conflicts at the international level. To avoid, resolve and / or reduce these, we need to look at the provisions of European and international tax law. „*In international tax law, broadly, we mean all the internal national tax rules created by national tax systems that in which foreign subjects appear, or rules on the taxation of foreign income and conflict with the internal tax rules of another nation. In this case, international tax law actually consists of the rules of domestic tax systems, in which the foreign legal relationship appears. Whereas the rules of national law relating to non-resident taxpayers or their income often follow the same or different principles of taxation, this creates a conflict of national tax rules, international tax law conflicts.*” (ERDŐS, 2007)

In addition to international tax law, the aim of European Union tax law (as a result of tax harmonization) is to eliminate tax conflicts arising from differences in national tax systems or the use of identical methods in order to establish and operate the single internal market. (ERDŐS, 2012) This process is often hampered by the need for unanimity under Articles 93 and 94 of the EC Treaty for the adoption of directives concerning the harmonization of taxes and the functioning of the single internal market.¹⁴ According to the current numbering, Articles 113 and 115 of the Treaty on the Functioning of the European Union lay down these rules. The European Union must not affect the sovereign right of states to levy and collect taxes, however, in order to ensure the functioning of the single internal market, the use of harmonization instruments to avoid double taxation can be observed (interference with the national tax law of the Member States would be accompanied by understandable resistance on the part of the States concerned).¹⁵ In the light of the above, European tax law can be seen as an instrument of international tax law that seeks to resolve conflicts between Member States' tax rules by means of tax harmonization.¹⁶

The aim of European and international tax law is therefore not to interfere in national tax policies, but to resolve conflicts of interest arising from their conflict and overlap.

¹³ OECD G/20 Base Erosion and Profit Shifting Project, *Tax Challenges Arising from the Digitalisation of the Economy Global Anti Base Erosion Model Rules: Pillar Two, Inclusive Frameworks on BEPS on 14 December 2021*. <https://www.oecd.org/tax/beps/tax-challenges-arising-from-the-digitalisation-of-the-economy-global-anti-base-erosion-model-rules-pillar-two.pdf>, (download:20.03.2022)

¹⁴ EC Treaty Article 93. és 94.

https://gvh.hu/pfile/file?path=/jogi_hatter/eu_piacra_iranyado_szabalyozas/europai_unios_versenyjog/kozossagi_versenyjog/jogi_euszab_EU_szerzodes_m.pdf&inline=true (download: 01.06.2022) TFEU 113., 115.

¹⁵ See also methods of tax harmonization: ÖRY Tamás: Adóharmonizáció az Európai Unióban - Magyar Köztársaság Külügyminisztériuma <http://www.bmeip.hu/download/engemiserint/Adoharmonizacio%20az%20EUban.pdf> p.8-17. (05.12.2021)

¹⁶ ERDŐS (2007) p. 270.

3.3. International Conventions for the avoidance of double taxation

Not only within the European Union, but also internationally, it is common for states to conclude bilateral double taxation agreements in order to promote both their economic and diplomatic relations. (BALCO, 2017) The free movement of persons and cross-border work have further facilitated the conclusion of such bilateral agreements. These agreements (beyond the distribution of revenues between the contracting parties) determine which State is entitled to tax in cases where certain organizations of a multinational company are located outside the country.

Conventions on double taxation may differ, but in principle they follow the model agreement issued by the Organization for Economic Co-operation and Development (OECD), which plays a crucial role in removing tax obstacles to cross-border trade and investment. This is the basis of bilateral tax treaties, negotiations between states that aim to support businesses while helping to prevent tax evasion. The OECD model also serves as a tool for a common solution to the most common problems in the field of international double taxation. Of course, the OECD model requires constant review to address new tax issues arising in the context of global economic development.¹⁷

The OECD double taxation conventions were created with the aim of creating a uniform solution to the problems of international double taxation. For the contracting parties, these agreements make it easier to invest abroad administrative burdens and facilitate the flow of goods and services between the Contracting States.¹⁸

The model convention contains two main methods for avoiding double taxation: one is the exemption method¹⁹, the other option is the limitation, the method of set-off²⁰. In the case of the first method, it is not part of the tax base the income earned abroad, there is no need to tax (so it handles the problem at the tax base level), alternatively, income earned abroad is part of the domestic tax base, provided that it is necessary to reduce the amount of the tax liability incurred domestically by the amount of the tax already paid abroad, ie it ensures the avoidance of double taxation at the level of the tax to be paid.

A double taxation convention has now been concluded between most states, thus, under a number of bilateral tax conventions, the amount of tax paid in the country of employment is included in the tax payable in the country of residence; in other cases, income earned in the country of employment can only be taxed in that country, so the income in question is exempt in the country of residence.²¹ Conventions on double taxation are of a bilateral nature, and Hungary has concluded bilateral agreements with a number of states on this subject.²²

¹⁷ The *OECD Model Tax Convention* <https://www.oecd.org/ctp/treaties/model-tax-convention-on-income-and-on-capital-condensed-version-20745419.htm> (download: 01.05.2021)

¹⁸ SAUVANT, SACHS, *The Effect of Treaties on Foreign Direct Investment - Bilateral Investment Treaties, Double Taxation Treaties, and Investment Flows*, Ed.: SAUVANT, Karl P. and SACHS Lisa E., Oxford University Press, 2009.

¹⁹ OECD Model Convention Article 23 A.

²⁰ OECD Model Convention Article 23 B.

²¹ European Union website: Double taxation https://europa.eu/youreurope/citizens/work/taxes/double-taxation/index_hu.htm (2021.05.07.)

²² Hungary has such an agreement with all EU member states and more than 80 countries in total. see more about this: NATIONAL TAX AND CUSTOMS OFFICE: Taxpayer's information on Hungary's tax conventions applicable from 1 January 2020. https://nav.gov.hu/nav/ado/egyeb/map_tajekoztato.html (01.06.2021)

States party to a bilateral convention based on the Model Convention need to examine, in particular, whether national law determines nationality (based on nationality, place of residence). If the national law of several states provides for residence, it is necessary to examine in which country the taxable person is domiciled / center of habitual residence. If residence cannot be established on the basis of the above criteria, the tax conventions settle the residence according to nationality, or, if the individual has more than one nationality, the competent authorities shall decide on the determination of residence.

Tax evasion is a global problem that can be a source of international conflict. To address these issues, a multilateral agreement has already been established, based on the rules set out in the OECD BEPS project.²³ In Hungary, the Multilateral Tax Convention was promulgated by Act III of 2021 in connection with the implementation of tax conventions.²⁴ It is important to note that the multilateral agreement promulgated by law is applicable in parallel with, and does not replace bilateral agreements.

3.4. Insurance relationship

In addition to residence established on the basis of double taxation conventions, the issue of the payment of contributions in connection with work deserves a separate examination. The payment of contributions is an essential element of social security. In addition to declaring freedom of movement, the TFEU also provides for the protection of the social security rights of EU workers. Under Article 48 TFEU: „*The Council, acting in accordance with the procedure laid down in Article 25, shall adopt measures in the field of social security which necessary to ensure the free movement of workers; to this end, establish a system of tools to ensure for migrant workers and those entitled to them:*

(a) the aggregation of all periods which may be taken into account under the legislation of the various countries for the purpose of acquiring and maintaining entitlement to benefits and calculating the amount of benefits;

(b) the payment of benefits to persons residing in the territory of the Member States.”²⁵

Like the tax liability, the obligation to pay contributions exists in one state, the worker may be insured in one state, and the legislation of a Member State applies to the social security relationship. Regulation (EC) No 883/2004 on the coordination of social security systems, and Regulation (EC) No 987/2009 implementing it, lays down rules on social security for persons pursuing an activity in more than one Member State (by activity we also mean work or entrepreneurial activity). While Regulation (EU) No 883/2004 on social security coordination provides for the application of the *lex domicilii* principle (territorial principle) and the *lex patriae* principle (nationality principle), the TFEU provided for the *lex loci laboris* principle, ie the principle of the place of employment. live.²⁶

Ensuring social security has become an important issue at the same time as the free movement of workers, an issue that individual states have sought to address through bilateral and multilateral agreements. Bilateral (bilateral) conventions - agreements

²³ What is BEPS? <https://www.oecd.org/tax/beps/about/> (download: 06.07. 2021)

²⁴ Act III of 2021 on the promulgation of the Multilateral Convention on the Implementation of Measures Relating to Tax Conventions for the Prevention of Tax Base Erosion and Transfer of Profits

²⁵ Treaty on the Functioning of the European Union Article 48.

²⁶ Regulation (EC) No 883/2004 Article 4 Equal treatment Save as otherwise provided in this Regulation, persons to whom this Regulation applies shall enjoy the same rights and be subject to the same obligations as nationals of that Member State.

between two states that bring together and produce legal effects. Bilateral agreements in most cases faithfully reflect the problems arising from migration between the two states. Bilateral agreements can be social security agreements, social policy agreements or health cooperation agreements. (Members of the European Union do not need to conclude such conventions, as EU law basically guarantees the right to free movement of persons and regulates issues arising from the movement between Member States.) Multilateral coordination agreements are usually concluded by international organizations, and individual Member States have the opportunity to accede to these multilateral agreements through ratification. The United Nations has a key role to play in social rights. (HAJDÚ József, BERKI Gabriella, ÁCS Vera - JANINÉ LADOS Dóra, 2015)

4. SUMMARY

It is indisputable that there may be a number of international conflicts over taxation and the payment of contributions. International tax law induces these international tax conflicts, which are exacerbated by the proliferation of digital businesses and services, digital work, and their increased tax avoidance habits: According to data sent to the National Tax and Customs Administration by the Irish tax authorities, among others, the Hungarian accommodation providers of the Airb'n'b network report a much smaller amount in their tax returns.²⁷

With the advent of technological development and digitalisation, a new world has begun, with digitalisation reshaping economic, political, social relations, the weight and role of individual countries, sectors and professions.²⁸ Domestic and foreign tax authorities use a number of measures to curb the black economy, the main objectives of which are also tax avoidance; non-compliance with certain tax and financial regulations and the avoidance of other administrative requirements, which can also create a number of problems at international level.

European tax law aims to resolve tax conflicts between member states and eliminate distortive and discriminatory taxation, and to promote competitive neutrality in order to make the single internal market work. Conflict resolution tools: primary sources of European tax law, actions based on them by the Commission, and secondary sources and soft law documents: a Code of Conduct, the OECD BEPS Action Plan, the ATAD Council Directive, the Commission's action under the competition rules against unlawful tax advantages and State aid, and other directive proposals, such as the proposal for a directive on transparent digital taxation, on the taxation of the digital presence.²⁹

The problem of tax conflicts, such as tax evasion, double taxation or even double non-taxation, is a general phenomenon at international level, against which action is also of international interest. Although the OECD Model Convention is not legally binding, it has implications for the shaping of domestic financial and tax law, the development of bilateral international agreements between countries and cooperation between states on tax avoidance and double taxation. As an international organization, it is also significant

²⁷ Uber, Airbnb: csak futnak a jogászok a fejlődés után https://piacesprofit.hu/kkv_cegblog/uber-airbnb-csak-futnak-a-jogaszok-a-fejlodes-utan/ (download: 15.09.2019.)

²⁸KALTENECKER Szilárd: *A digitális gazdaság adóztatása*. BA/BSc Thesis, 2018. BCE, 8.

²⁹ ERDŐS im.(2020) p.41. It means, that these tools are against the tax evasion.

because it provides guidance and support not only to the participating Member States but also at a global level, which is reflected in European Union legislation. (GUBACSI, 2021) The latest example of this is the plan to introduce a global minimum tax after 2023, about which the OECD Convention was signed by about 137 states, including Hungary on October 8, 2021. The OECD's two-pillar global minimum tax concerns the taxation of multinational companies and has an impact on corporate taxation, its importance in eliminating double taxation and increasing the means of combating tax evasion, the European Council has already put forward a proposal for a directive, which the Member States has adopted finally.³⁰

Another problem regard to the double taxation, which now is going to wait a solution, that the USA has exited from the Hungarian and American Double Tax Convention. Now till the end of this year (2023) the Convention is still existing, but after this year there are two options to solve this problem: to adopt a new version of the Convention avoiding the double taxation between USA and Hungary, or adopt a formerly version of the American and Hungarian Convention about Avoiding the Double Taxation. This is the main target of the international tax law, solve the conflict like double taxation of incomes in two states.

Solving the problems of double taxation: the elimination of international double taxation related to the employment of private individuals continues to lead through bilateral agreements by designating one of the principles of residence or source, and the way by resolving conflicts between the two principles.

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