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Theoretical Models of Taxation of Holding Companies in Member States of the European Union

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Abstract

Currently, a holding company is one of the most popular form of organisation in the globalized Europe. The tax situation of such entities is a significant condition determining cross-border operations. Therefore, the objective of this article is to analyse the theories of taxation of holding companies conducting business activity on the territory of the EU. Analysis shows how great a variety of models (theories) of taxation, which are available in various EU Member States, a holding company may use. Individual tax theories are characterised by particular constructions that have both advantages and disadvantages.

Keywords: corporate tax, holding companies, european tax law, tax optimalization.

General Comments

The phenomenon of capital mergers is a permanent attribute of a developed market economy and is beginning to substantially dominate in economic realities. Thus one may safely assume that in spite of elapsing time, a tendency of the number of capital mergers to increase is becoming stable. Furthermore, such a tendency is observable not only in EU member states but also outside Europe. There are various forms of cooperation between companies observable within this phenomenon; their character is either one of collaboration or concentration.

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These phenomena are closely related to the operation of holding structures. In most states, holding companies have become the most popular form of organization used by large economic entities. A dominating position that this structure holds is a result of not only the fact that it offers access to attractive legal and tax solutions but also of the fact that there is no advantageous alternative to it.

There are many reasons for such an elevated interest in a holding company. Certainly, strictly economic aspects play a major role. Most frequently, they are connected with an investment policy of expansion pursued by an economic entity. Doubtless, this strategy is related to a tax optimization policy of an enterprise. One may state with complete certainty that it is very often one of the most important reasons for establishing a holding structure.

In highly developed countries, a holding company has become a standard element among large economic entities. It is especially appreciated by entities conducting cross-border business activity. The role of holding companies operating on the territory of only one state is of marginal importance since it is not possible for them to compete with international structures. The level of competitiveness of international holding structures may be noticed not only with respect to their operational activity but also in the context of the possibilities for tax optimization, which such a structure offers (Ordelheide 1986: 8). This fact is appreciated especially by companies seeking savings because of the economic crisis that they are facing.

A holding company plays a major role in shaping the European economy in all European Union member states. This type of a company has become an instrument in the processes of financial consolidation and consolidation of ownership (Lutter, 1995: 8). That is why a holding company has acquired the status of a significant instrument for shaping tax optimization policies pursued by entities associated on a cross-border level.

Today no one wonders whether holding structures are needed any more since they have become part of the global economy for good. Currently, creation of legal regulations regarding taxation of holding companies making cross-border transactions is a challenge that presents itself. On the one hand, such regulations should prevent entities from pursuing a harmful tax policy, on the other, they should not interfere with the freedom of establishment.

The fiscal policy created by European Union member states exerts dominant influence on taxation of international holding structures. This is because, domestic legal systems combine with international law and EU law to jointly shape international tax law for holding companies.

Models of taxation of holding companies demonstrate how different the tax circumstances surrounding the operation of holding companies in individual EU Member States may be (Kessler 1996: 46–56). Therefore, it is worth indicating to what extent these tax theories differentiate between EU Member States and thus distance the EU from developing a uniform tax model for holding companies conducting cross-border activity in the EU. Analysis of the theories of taxation of holding companies demonstrates that the situation of holding companies conducting cross-border activity in the EU is varied.

Tax Aspects of Operation of Holding Companies

Although there is no definition of a holding company provided in the provisions of statutory laws – which results in these entities having no legal personality – the importance of these entities is definitely not minor as this type of organization holds the central position in the existing and the newly-emerging tax solutions which are of key significance in the global economy nowadays.

Even though a holding company has no a legal personality, it does not mean that the companies forming the holding structure may not obtain a special tax status. The overwhelming majority of legal systems in EU member states allow the establishment of composite tax entities and thus for joint taxation of entities belonging to one holding structure. Principally (apart from the exceptions presented below), the majority of tax solutions are concerned with domestic holding companies, i.e. structures comprised of companies that have registered offices on the territory of only one country (Eynatten 2007: 562). Therefore, tax solutions applicable in particular states are not applicable to international holding companies which make cross-border settlements between their companies.

Two ways of taxation of domestic holding companies, which remain at opposite extremes, are distinguished. They are based on whether a holding company has a taxable personality or not. Entities within the company may be taxed either jointly or separately. In each of these manners of taxation, the holding structure is treated in a very different way, which is reflected in its tax situation.

The basic line of reasoning underlying **separate taxation** of entities in a holding structure is that companies forming a holding structure are taxed as separate taxpayers. It does not matter thus that from an economic perspective, these companies are one business unit. Such reasoning is justified by claims that if the

holding company as a whole does not have a legal personality on its own and thus has no taxable personality as well, companies belonging to a holding structure are separate legal persons. Even if there are subordination relationships enjoyed between members to a holding structure and single management is exercised, income of a company being part of a holding structure is calculated separately – as for a separate taxpayer – as if the company were an independent entity in both legal and economic terms. Furthermore, the theory on income subject to taxation is of significance in the case of separate taxation of entities belonging to a holding structure. In accordance with this theory, income may only be assigned to natural or legal persons and not to an entity created on the basis of economic criteria (*European Tax Handbook* 1997: 92).

In the case of holding companies in which member entities are taxed separately, the transactions they made among one another are not neutral in terms of taxation. They are taxed in line with the general principles, i.e. they are treated as if they were made between entities having no shareholding links between them.

The line of reasoning underlying the theory of **economic unity** is based on treating a holding company as a single economic entity with a single taxable personality. Whereas companies belonging to a holding structure are devoid of taxable personality (Kristen, Passeyrer 2003: 328). Such a form of organization is similar to a multi-establishment company with many subordinate establishments.

In line with the theory of economic unity, only the total financial result of the holding company is subject to taxation as the holding structure is treated as a single taxpayer. The financial result of a holding structure is calculated on the basis of a tax balance sheet. Tax regime is not applicable to the parent company but to the holding company as one economic entity. A tax balance sheet of a holding structure is drawn up similarly to a tax balance sheet of any other company while member companies are treated as establishments. Financial operations between entities within one holding company – referred to as internal trade – are neutral in terms of taxation. All financial transactions made outside a holding company are made on behalf of it and any tax consequences arising in connection with them burden the holding company treated as a whole. Liabilities and receivables arising between companies belonging to a domestic holding company, which have their own separate legal personalities, do not result in any tax consequences as well (Douvier 1997: 131).

The main **benefits** arising out of treating a holding structure as a single economic entity are as follows:

1. **Elimination of taxation of unrealized profits** within a holding company is one of the major advantage of adoption of the theory of economic unity. This is because it is related to the principle of realization. It states that profit may be included in the

balance sheet only if it has been realized before the end of a trading year as a result of sale of services and commodities or other exchange of services. The moment of realization is assumed to be the date of release of goods or performance of service towards the buyer (Kütting 1980: 7).

Elimination of taxation of unrealized income within a holding structure is one of the basic differences between separate and joint taxation of entities belonging to one economic entity. If the entities are taxed separately, sale made between two companies in a holding structure causes the profit of the selling company to be realized and it will be subject to taxation. The buying company includes the purchased goods in their balance sheet at the purchase prices and if it is a fixed asset, the price constitutes a base for depreciation.

If the holding structure is treated as a whole, no profit emerges. Just as no profit arises as a result of transfer of certain assets from one establishment to another. Treating sale made between companies belonging to a holding structure as sale between independent entities results in income subject to taxation of a holding company treated as a whole to be artificially elevated in some years, if the selling company makes profit on the sale (Michielse 1997: 287). In other years, income will be artificially reduced – if the buying company makes a depreciation deduction based on the purchase price.

Adoption of the unity theory causes the profit to be realized only when the commodity leaves internal trade of a holding company. A direct effect of this fact is that internal trade occurring within the holding company as a whole does not lead to any tax-related consequences.

2. Another benefit attributed to a holding company operating according to the theory of unity is **avoidance of double or multiple taxation of dividends**. It is a very important issue, especially for companies belonging to a holding structure. The above-entioned phenomenon occurs in the case of companies forming a holding structure operating in line with the separation theory. Double or multiple taxation of dividends takes place among companies belonging to a single holding structure, whcih distribute dividends among one another. A dividend is subject to taxation in the subsidiary for the first time and again in the parent company due to income it earned from a share in the profit of a subsidiary. If then the parent company distributes dividends to other companies that are shareholders in it, the dividends undergoes taxation one more time.

   Holding companies that undergo taxation according to the theory of unity are presented with this problem since transfer of dividends between companies forming a single domestic holding structure is treated as if certain assets or profits

were shifted among establishments of one enterprise (Melcon 1989: 14–15). The movement of dividends is treated as internal transfer of capital and thus it is neutral from the perspective of taxation.

3. The next issue which is significant from the point of view of taxation of domestic holding companies is **combining financial results of companies forming a holding structure for the purposes of taxation**. It is especially important, first and foremost, in the process of offsetting losses suffered by such companies. In the light of the theory of separation, a company belonging to a holding structure enjoys the right – as any other taxpayer – to offset the losses incurred in a given fiscal year against income generated in successive years (i.e. to transfer the loss forwards). If the theory of separation is applied, an entity being part of a holding company may also, if the provisions of law in an EU member state allow it, offset the loss against income from previous fiscal years (i.e. transfer the loss backwards). This is the so called inter-period offsetting of losses (Büchner 1990: 4).

In the light of the theory of economic unity – offsetting losses of one company in a holding structure against incomes of other ones results in taxation of income which has actually been earned by the holding structure as a whole.

Analyzing the two theories related to taxation of domestic holding companies, it must be clearly stated that the theory of economic unity is definitely far more advantageous for the operation of holding companies. It is particularly noticeable as far as avoidance of multiple taxation of dividends is concerned as well as elimination of taxation of unrealized profits within a holding structure, and combining financial results of companies in a holding structure for tax purposes. Therefore, from a theoretical point of view, the theory of economic unity offers the most beneficial solutions to tax-related problems experienced by a domestic holding company (Bouzidi, Bouzora 2000: 189). This is because the central position is held not by any artificial legal construct but one single economic entity which gains a taxable personality.

Theoretically, it is possible to distinguish only two extreme concepts of taxation of domestic holding companies. However, in practice, a third option is also available. And so some EU member states used none of the theories provided above but adopted a **mixed** approach. It allows to take advantage of most of the attributes of the theory of economic unity and takes on some of the features of the theory of separation as well. Each individual state may decide which features of the unity or separation theory to choose to adopt as part of a mixed approach (Oberascher, Staringer 2007: 29). As a result, a general characteristic of a mixed approach is impossible to arrive at.

Most EU member states have developed tax systems allowing joint taxation of entities having shareholding links. The most numerous group of countries bases their tax solutions on the theory of economic unity, among others: the Netherlands, Spain, Portugal, France, Hungary, Great Britain, and Ireland (Boekhorst 2000: 130b). The tax regulations applicable in these countries comply with all the criteria for treating a holding company as an economic unity.

Only a minority of states have not adopted any provisions of law regarding taxation of holding companies. In such countries, domestic holding companies are taxed separately, which means that they may not count on special preferences in terms of taxation, apart from mechanisms allowing them to avoid multiple taxation of dividends. It might justify scarce internet shown in this theory (Lang, Schneeweiss 2007: 87).

A third group of countries follow the principle of combining the theory of economic unity with the theory of separation, which is commonly known as the mixed theory (Germany, Denmark, the Czech Republic, Slovakia, Luxemburg, and Poland). These states have provisions of law allowing avoidance of multiple taxation of dividends and combining financial results for tax purposes. However, they do principally not offer the possibility to eliminate taxation of profit unrealized within a holding structure.

One must note though that European Union member states did not formulate a uniform common fiscal policy regarding the possibilities and rules for tax consolidation of domestic holding companies. This may be considered as a flaw in the currently operating legal system.

In each EU member state, there are different terms for tax mechanisms allowing holding companies to be subject to special treatment in terms of taxation. In the Netherlands, it is referred to as *fiscale eenheid*; in Spain – *regimen de declaration consolidada*, in France – *regime de l'integration fiscal*, also called *groupes de societies*; in Great Britain – group relief, capital gains group, group income; in Germany – *Organschaft*; in Denmark – *sambeskatning*, in Poland – *podatkowa grupa kapitałowa*. The main objective of introducing separate terms is granting a special tax status only to those domestic holding companies that comply with the conditions specified in national statutory law.

Tax law of the majority of states provides for an entity with a special tax status destined for holding companies. It also defines the conditions and modes of its establishment and rules of operation.

One must note that in each member state, the provisions of law concerning domestic holding companies differ in terms of solutions that they offer. The differences are concerned with both purely formal issues and practical regulations. There are also differences among states that impose taxes on holding companies in line with the same theories. On the one hand, it shows that individual systems of statutory law are sovereign and, on the other hand, there is no uniform and consistent tax policy in relation to holding companies in the whole EU.

Regardless of the differences between particular countries in terms of specific solutions, there are three criteria that must be met in order for a holding company to be granted a special fiscal status. The presented conditions are applicable both in countries basing their solutions on the theory of economic unity and the ones imposing taxes on holding companies in line with the mixed theory. The special tax solutions are available to holding companies provided that they satisfy the criteria provided below.

Firstly, the parent company should hold a specified number of shares or have the right to a specified number of votes in the decision making bodies of subsidiaries. Secondly, subsidiaries must be capital companies. This condition is not applicable to parent companies. Thirdly, the parent company and the subsidiaries are required to have a registered office in a state where they apply for the special fiscal status.
One should bear in mind that the above-mentioned criteria are applicable with respect to all special tax statuses available in EU member states. They are not, however, the only criteria that must be met as a number of other conditions that domestic holding companies must abide by in order to be granted the special fiscal status exist.
Although the subject matter of this deliberation is not tax solutions offered to domestic holding companies, it is noteworthy that theoretically international holding companies may take advantage of these solutions just as well (Lang, Schneeweiss 2007: 87). They achieve it by way of excluding their foreign companies belonging to a holding structure from tax consolidation. Thus an international holding company that temporarily disregards its foreign company for the purposes of tax consolidation may use the tax solutions offered to domestic holding companies. One must bear in mind though that abundant security measures included in statutory laws of countries are adopted in order to prevent such practices. Therefore, each time a holding company undertakes to 'circumvent' the legal provisions in a similar case, it must approach this task individually.

The currently applicable solutions for taxation of domestic holding companies in all member states do not form a consistent and uniform tax system for holding structures. It seems that there is a need to intensify the works towards making the

legal regulations regarding taxation of domestic holding companies more uniform among EU member states (Grotherr 1995: 18; Romano 1999: 79). This is also true for statutory regulations of countries newly accepted among the EU member states (and those remaining at the pre-accession stage), which have provisions of law regarding taxation of domestic holding companies that are different from the widely applicable standards.

The fiscal situation of domestic holding companies in EU member states is dualistic in character. Usually, holding companies complying with the fundamental conditions may make use of the tax solutions which allow them to gain a taxable personality (except in countries adopting the separation approach). Otherwise, they may undergo taxation in line with the general principles and use no preferential conditions. It must be highlighted that the tax solutions destined for holding companies are entitlements and not obligations (Scheffler 1990: 43). Very frequently, the shareholding structure of a domestic holding company using the entitlements to tax preferences does not reflect the actual holding structure. It is worth bearing in mind that not all companies being part of a holding structure meet the statutory criteria that make it possible to become part of a holding company with a special tax status. Moreover, holding companies are not always interested in establishing such a holding company with all the companies that comply with the conditions stipulated in the acts of law (Josephens, Steenholdt 1999: 146). Most EU member states do not allow international holding companies to use the provisions of tax law in question. While it is necessary to remember that at the time of full-fledged globalism, the nature of a holding company is essentially conducting cross-border business activity. The consequence of the above-mentioned situation is that very frequently a holding company using the preferential tax solutions does not manifest its actual shareholding structure (Scheuchzer 1994: 57).

The multiplicity of tax solutions in particular states and undoubtedly small interest displayed in these regulations advocates a claim that they should undergo reform aimed at not only unification of these regulations but, first and foremost, making them more attractive for holding companies themselves. The most important direction of changes should be taking into account the specific nature of holding companies, especially the cross-border character of their activity. In fact, it is impossible to reform the legal regulations in individual countries without taking into consideration an issue of such great importance for the operation of holding companies (Loos 1972: 181–182). One must bear in mind that lack of interest exerted by holding companies in domestic provisions causes substantial losses for state budgets. This is a consequence of the fact that holding companies conducting cross-border

activity seek to operate in tax areas which are, from an economic point of view, most advantageous for them (esp. in the so called tax havens) (Obermair, Stefaner 2007: 51).

It is worth stressing that the necessary reform of the provisions of tax law designed exclusively for domestic holding companies, which should be aimed at unification, will be absolutely inevitable, if new legal regulations are to be introduced for international holding companies.

Tax solutions put forward individually by EU member states are designed only for domestic holding companies. Only in few countries, the law offers international holding companies the possibility to use these tax solutions (Austria, Denmark, the Netherlands, France, and Italy) (Andersen 2000: 169; Lefebvre 1995: 69; Müller 1991: 48). It is however, limited by a broad array of restrictive conditions which must be complied with. Frequently, it is the tax authority that makes a decision regarding this matter basing it on discretionary criteria which are far from being clear. Furthermore, it must be stated that international holding companies have considerably fewer advantageous entitlements in terms of taxation – under the law in question – than domestic holding companies. It is quite unsurprising though since the intention of the legislator was for the solutions to be used for domestic holding companies and the international ones may only take advantage of them in exceptional situations. Obviously, despite imperfections, those regulations should be assessed positively due to their pioneering character. They may become determinants for further reforms that will expand the scope of beneficiaries of such solutions on international holding companies as well.

The practice of using those solutions may point to a direction that reforms of tax systems should assume with respect to international holding companies. Simultaneously, it may provide an answer to the question whether revenue for public budgets of EU member states may be reduced as a result of including international holding companies into the personal scope of the provisions of law under discussion (Kay, King 2004: 168).

States that have introduced provisions of tax law designed for holding companies and not only the domestic but also international ones are as follows: Austria, Denmark, France, the Netherlands, and Italy (Te Spenke, Lier 1992: 88–89; Wakkie, van Meer Deventer 1992: 116). Therefore, while elaborating on the nature of taxation of international holding companies, it is necessary to discuss the solutions introduced by those countries as well since they are frequently employed by holding companies conducting cross-border business activity for the purpose of shaping their policy of tax optimization (Pedersen 1994: 577). Obviously, each international holding company will consider whether to make use of those regulations on individual basis.

As it must ponder whether adoption of such tax solutions will be beneficial enough, especially in the context of statutory criteria it will have to meet in order to be entitled to use them.

Prior to deliberation on those regulations, it is worth noting that these states base their legal solutions on various theories and, what is more, it is challenging to find elements that those tax solutions have in common; uniformity across them is scarce. Undoubtedly, such provisions of law may serve to inspire other countries that wish to embark on reformation of their provisions of law regarding domestic holding companies or formulate new ones that would be applicable to international holding companies as well.

An important legal form which reflects the needs of international holding companies is a **European Company** (or SE – Societas Europaea). It is a transnational form of a company stipulated in European Union law. It is included in the laws applicable in individual jurisdictions across EU member states. A European Company is a type of a public joint-stock company.

The chief **objective** of a European Company is to make it possible for European enterprises that operate in a form of a group of companies (a joint-stock company) to combine their economic potentials, cooperate on a transnational level, and reorganize their activity in order for it to be conducted on a Community level. A European Company is intended to bring about uniformity in terms of economic aspects as well as the laws governing entrepreneurship in the European Union so that they coincide with one another across the EU to as large an extent as possible. Nevertheless, the legal form of a European Company does not reflect the needs connected with consolidation of incomes for tax purposes, which are generated by entities that decide to form a group together (Bestmann 1982: 49–63; Reindl, Walter 2008: 611). It must be plainly stated that this legal form has not brought international holding companies the tax benefits that are available to domestic holding companies operating in line with the theory of unity or the mixed theory.

It certainly does not mean, however, that a European Company exerts no influence over the shape of international tax law designed for holding companies. To some extent, it is another step taken as part of this process. Creation of special regimes for taxation of a European Company has received criticism centering on the fact that it would cause illicit public help for such entities to be introduced in the law.

As far as the advantages of using the legal form of a European Company for the purpose of conducting business activity are concerned, it allows relocation of a company's registered office and thus of a tax jurisdiction as well, without the need for instituting the winding-up proceedings. Hence employment of this legal form

of operation seems to be attractive both in the case of the managed and managing entities. A drawback, however, is an obligation to use the domestic provisions of law regarding a public joint-stock company that arises in connection with using this legal form, which is more costly in the case of the majority of national regulations than, for instance, using the legal form of a limited liability company (Princen, Gérard 2008: 174).

If a registered office is changed, the effect of optimization may be brought about. For instance, this is the case, if different tax rates are used or if certain expenses may be classified as tax deductibles. At the same time, EU legal provisions are intended to limit the negative consequences arising out of transfer of profits among entities forming a holding structure and change of the location of a registered office of a European Company.

In the case of a European Company being a legal form employed in devising a holding structure, the legal provisions stipulated in the applicable directives are of use as they are related to an introduction of mechanisms aiming at elimination (or reduction) of taxation of financial transfers within such a group (Knoepfler, Anderson 1988: 172). Such provisions of law are currently applicable with respect to selected taxes, structures, and forms.

The first directive to consider is Directive No. 90/435/EEC whose personal scope (after amendment) includes European Companies as well. The directive provides for a mechanism intended to allow for avoidance of double taxation of movements of profits among companies belonging to a holding structure.

Directive 2003/49/EC contains similar stipulations which are intended to eliminate double taxation of incomes from interest and royalties exchanged by associated companies.

Directive 90/434/EEC as well is concerned with taxation of unrealized capital gains at transfer of the registered office of a European Company in some countries. In consecutive amendments and finally adoption of a new directive, provisions directly related to transfer of a registered office of a European Company have been included in the law. The introduced legal provisions are aimed at preserving neutrality in terms of taxation of the process of transferring a registered office of a European Company (Mayr, Wiesner 2008: 153). The directive is concerned with the problem of transfer of profits (or losses) in the case of relocation of a registered office of a European Company as well as with the principle of continuation of a policy of depreciation, the principle of avoidance of taxation of hidden reserves, offsetting tax losses, the

principle of not imposing tax on the owners of a company when a registered office of a European Company is moved.

Nonetheless, the legal form of a European Company still cannot be recognized as a measure for alleviation of the problems and difficulties that holding companies conducting cross-border business activity face in connection with their operation. Nowadays the European Company is still nothing more but a certain stage in the process of setting up a fiscal system for international holding companies.

Conclusions

Presentation of the solutions regarding taxation in selected EU member states is inevitable for the purposes of evaluation of the possibilities for shaping tax policies by international holding companies. It's objective is also comparison of the solutions offered to domestic and international holding companies.

The majority of EU member states have introduced tax measures designed for domestic holding companies into their statutory laws. However, few of them have decided to extend the personal scope of those solutions on holding companies conducting cross-border business activity. Doubtlessly, the cause of this situation should be found in the countries' apprehension that contributions to the state budgets might be lost. International holding companies – in the opinion held by the states – will attempt to make settlements in countries imposing the lowest tax rates. Practice followed in the presented countries, the economic reality (among others, the global crisis), and the case law of the CJEU have prompted the states to (even if slowly) change their attitude towards international holding companies. It is manifested by the tendency to introduce tax solutions designed for international holding companies into national statutory provisions of law (e.g. in Italy, Austria) (Jann, Schuch, Toifl 2012: 67–69; Leitner 1997: 174).

Basing on comparative analysis, it must be stated though that there are substantial differences among solutions designed for domestic holding companies and the international ones. Essentially, all the presented jurisdictions impose more restrictive conditions on transnational holding companies, which they must met in order to be eligible to preferential tax treatment. Benefits enjoyed by holding structures under particular statutory laws are also dissimilar, which results from different assumptions underlying international consolidation. Solutions designed for domestic holding

companies are undeniably more precise and articulate than the measures offered to structures carrying out cross-border business activity.

One must bear in mind, however, that direct comparison of taxation-related objectives of domestic and international holding companies is severely hampered (perhaps even impossible) as their nature is dissimilar (which is related, among others, to transnational transfer pricing or offsetting of losses). The fact that a holding company operates under various domestic statutory laws creates numerous problems and dilemmas with respect to the law and taxes. Simultaneously, it is worth noting that the comparison performed on the presented solutions is incomplete since a wider array of instruments serving to shape transnational optimization policies (which will be discussed in further chapters) is available to international holding companies and the presented solutions are merely a few of the possible options.

Differences among the presented solutions are also visible in measures designed for transnational structures in particular states. The systems operative in the states that have decided to introduce legal regulations for international holding companies do not provide for similar rules for taxation of domestic holding companies. These are countries which have based their laws on the theory of economic unity and the mixed theory. Although differences with respect to particular solutions are noticeable, the main assumptions are similar.

It is also worth making note of the fact that in clearly defined cases, international holding companies may adopt solutions designed for domestic holding companies. They can do so by way of excluding foreign companies belonging to a holding structure from tax consolidation. Although this solution is very rarely employed by international holding companies, one must bear in mind that it is an instrument for pursuing the policy of optimization of taxation of holding companies.

A deliberation on the theories of taxation which are directly related only to domestic holding companies also constitutes a valuable analysis. They may be of great significance for taxation of international structures since the assumptions underlying the theories may serve as basis for reformation of international law on holding companies in particular tax jurisdictions.

Long-standing practice of exploiting the provisions of tax law pursued by international holding companies has not revealed any negative consequences for the particular state budgets. It prompted other countries to consider passing similar regulations. From the perspective of the economic interest regarding a state budget, such solutions have become instruments intended to encourage international holding companies to place their economic centers on the territories of certain states. In the

future, it might even lead to the emergence of the phenomenon of (harmful) tax competition between countries outrunning each other in introducing more and more attractive legal regulations for international holding companies. It will certainly result in possible tax benefits for holding companies, which will allow them to make their tax policies more attractive.

Even though the presented solutions are not perfect, the fact that they have been created should be regarded as a positive manifestation of developing tax law for holding companies designed exclusively for international structures.

Domestic legal regulations offering no options for international holding companies are becoming less and less significant at the time of globalization of the economy. Nowadays, the form of the structure operating only on the territory of one state is of marginal importance both for the economy and for the economic situation of the companies themselves. Holding companies conducting cross-border business activity have become a standard. Many countries realize it and introduce changes which are intended to 'attract' international holding companies to their territory. States stop treating holding companies as instruments for conducting harmful tax optimization (which allows illegal avoidance of taxation) as they are beginning to understand that the world economy is profoundly based on the activity performed by international holding companies.

The process of introducing solutions designed for international holding companies in particular tax jurisdictions undeniably contributes to creating tax laws for holding companies. This process should be accompanied by the phenomenon of harmonization (unification) of regulations designed for international and domestic holding companies – while paying regard to independence of national jurisdictions, of course.

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