SILESIAN UNIVERSITY
SCHOOL OF BUSINESS ADMINISTRATION IN KARVINA

TAX HARMONIZATION

Ing. Šárka Sobotovičová, Ph.D.
INTERNATIONAL TAXATION AND TAX SYSTEMS/NPMZD

OUTLINE OF THE LECTURE

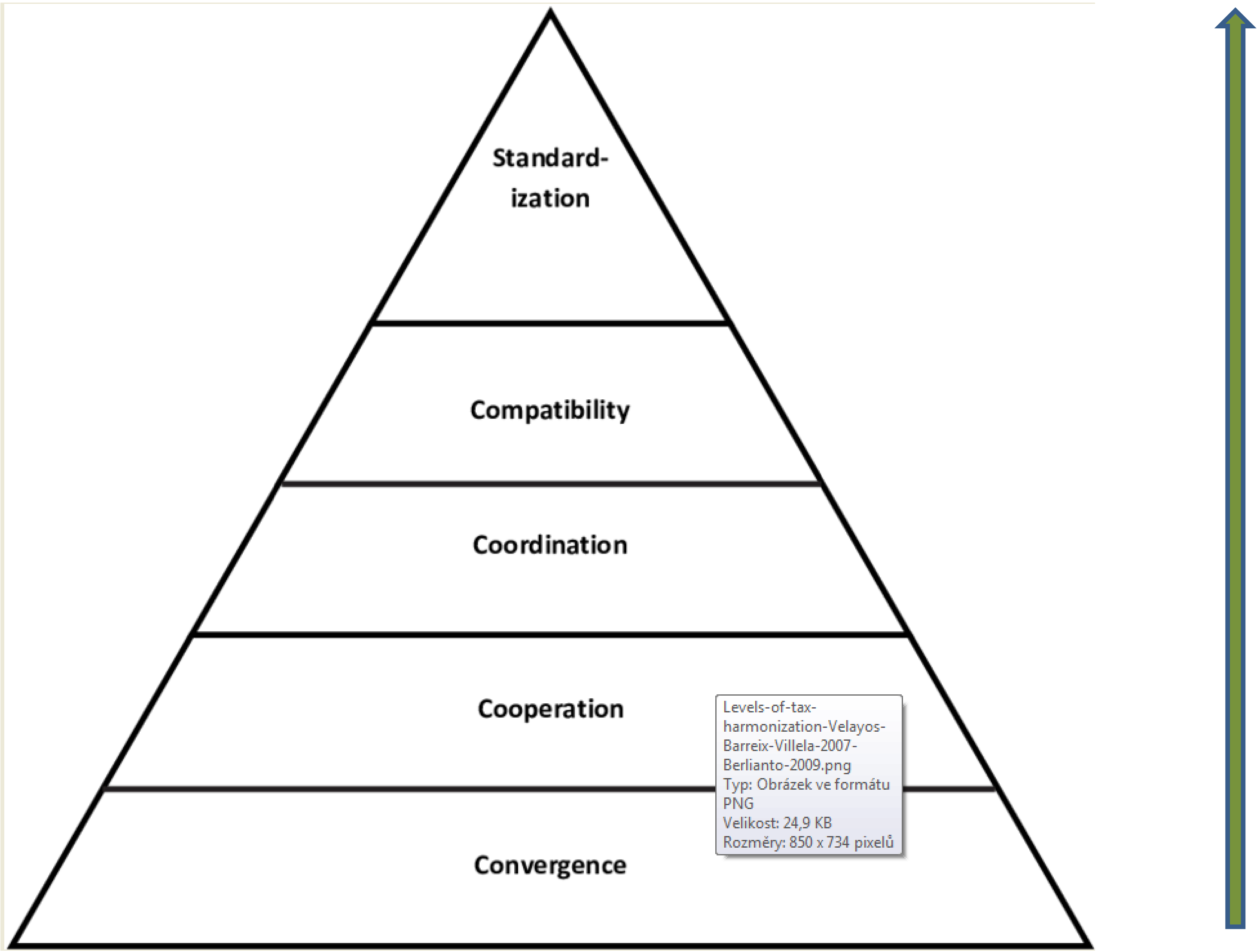
1. TAX HARMONIZATION
2. INDIRECT TAX HARMONIZATION
3. DIRECT TAX HARMONIZATION

TAX HARMONIZATION

Harmonization and Integration lead to the necessity to harmonize the fiscal policies of member countries, including coordinating mechanisms in tax matters with the purpose of avoid distortions that could affect the competitiveness of traded products.

There is a need for international coordination in tax matters, but countries are reluctant to give away any portion of their tax sovereignty, and that has limited the advances of international tax rules and institutions.

A proposed tax harmonization scale



TAX HARMONIZATION

- Tax harmonization represents the process of tax system convergence based on common set of rules.

- There can be identified **three main phases** during the harmonization process:
  - selection of tax, which is going to be harmonized,
  - harmonization of tax bases,
  - harmonization of tax rates.

- **Levels of tax harmonization**:
  - different taxes in all states
  - part of the taxes are common, some of the taxes are national – partial harmonization
  - same taxes in all countries

LEVELS OF TAX HARMONIZATION – DIFFERENT TAXES IN ALL STATES

The level where each country applies **different taxes** can be divided onward:

- there is no tax harmonization - there are no double taxation conventions and no cooperation on administrative level

- there is slight harmonization (i.e. there are double taxation conventions and the cooperation on administrative level)

LEVELS OF TAX HARMONIZATION – SAME TAXES IN ALL COUNTRIES

- The case when all the member states apply **the same taxes** can be divided further on following situations:

- different tax bases – nominal harmonization
- harmonized tax bases – here can be identified another two levels:
  - different tax rates – harmonization of tax bases
  - same tax rates – total tax harmonization.

Total tax harmonization is defined by the tax theory as the result of the structural harmonization (i.e. harmonization of the structure of taxes) and harmonization of the tax rates.

EU LEGISLATION

- **primary legislation** – basic treaties (the Treaties of Rome, Maastricht Treaty, Amsterdam Treaty, Nice Treaty, Lisbon Treaty),
- **secondary legislation** (regulations, directives, decisions, recommendations and opinions). Especially in taxation there are specific and strong rules:
  - directives have to be approved by the unanimous vote in the EU (by all Member States, after approvement, directives are legal instruments by which the Council or Commission can require the Member States to amend or adopt national tax legislation by a specified deadline in order to achieve the aims set out in the directive.
- **decisions of The European Court of Justice** (ECJ). There is now emerging, however, a serious question about whether the ECJ can (or will) continue to move political and economic powers away from the Member States to the European Union's governing institutions.

TAX HARMONIZATION IN EU

- EC Treaty in Art 93-94 considers as the aim of the harmonisation process the establishment and smooth functioning of the internal market.
- The tax harmonization as the tool for reaching of smooth functioning of the internal market could be:
  - **Positive tax harmonization** represents the process of the convergence of the national tax systems of EU member states by the implementation of directives, regulation and other legislative tools. The result of positive harmonization is the same rules in all member states.
  - **Negative harmonization** is the result of the activity of the European Court of Justice (ECJ). It cannot be considered as the harmonization in real sense, it does not provide the set of common rules, binding for all EU member states. The ECJ case law is binding for the parties involved in the case. The result of the negative tax harmonization cannot be a situation when there will be the same rules in EU member states.

TAX HARMONIZATION IN EU

- In respect to the actual development in the area of tax harmonization, the harmonization can be further divided on **direct and indirect**.

- **Direct** tax harmonization is understood as the classical harmonization process, which tries to harmonize the regulations directly by means of tax directives.

- **Indirect** tax harmonization is understood as the effort to reach the harmonization of certain tax regulations by means of harmonization of different areas of law – for example commercial law or company law.

TAX HARMONIZATION IN EU

- If we consider the definition of the tax harmonization only as the process in the EU, then the tax harmonization can be understood as the mechanism, which enable to remove tax regulations which create obstacles to smooth functioning of the internal market or which distort the competition on the internal market.

- The aim of the tax harmonization in the European Union is not to reach a unified taxation system, but the convergence and the approximation of the taxation systems.

INDIRECT TAX HARMONIZATION

Value added taxation system enables two possible principles of taxation:

- the **principle of destination** - under which the goods and services are taxed in the state of consumption
- **the principle of origin** - under this scheme the goods and services are taxed in the country of their production.

The first phase of the harmonization in the EU was dedicated to the implementing of the uniform system of **indirect taxation**. Without the harmonization of this system, the establishment of the internal market would not be possible, because different indirect taxation could deform the market competition on the internal market.

LEGISLATION IN THE FIELD OF VAT HARMONIZATION

In 1967 the **first directive** 67/227/EEC on the harmonization of legislation of Member States concerning turnover taxes was adopted.

In this directive the Commission obliged all the member states to substitute existing turnover tax system by the uniform value added taxation system on the principle of general consumption tax, which is imposed on all goods and services and is set by the percentage of selling price and so it does not depend on the number of the stages in production or distribution process.

The implementation of the value added taxation ensured the tax neutrality. Tax rates and also tax exemptions were retained in the competency of the individual member states.

LEGISLATION IN THE FIELD OF VAT HARMONIZATION

The **second directive** 67/228/EEC defines very clearly the object of the taxation. The object of the taxation is the sale of goods and provision of services on the territory of the member state realized by the taxpayer, and the import of the goods.

Further, the directive defines the place of fulfilment, taxpayers, sale of goods and provision of services. The member states were retained the right to adopted special rules to eliminate tax avoidances. This directive also allows to set special program for the agricultural sector and for small and medium sized companies.

LEGISLATION IN THE FIELD OF VAT HARMONIZATION

The transformation of the taxation system and its implementation caused serious problems in some states. It was particularly the fact that implementation of new system could cause the pressure on the expenditures of member states budgets.

- Third directive 69/463/EEC prolong the time for the implementation of VAT in Belgium until the end of the year 1972.
- Two following directives - fourth directive 71/401/EEC and fifth directive 72/250/EEC were prolonging the time limit for Italy until the end of the year 1973.

The result of adopting this directives was not the uniform system. Directives allowed a wide range of the exemptions and differences (in the field of agriculture, cross-border provision of services or possibility of tax deduction from import). Instead of uniform system there were individual systems with national differences.

LEGISLATION IN THE FIELD OF VAT HARMONIZATION

The most important directive in the field of VAT harmonization is the **sixth directive** 77/388/EEC. It is considered to be the basic directive. It quotes the definition of the tax base, the territorial reach, the subjects, the tax rates and others. The aim of this directive was to harmonize different national systems – in accordance with prerequisite comprised in the first and second directive – particularly taxation of intracomunitary transactions.

This directive is considered to be the basic but it has been amended more than twenty times.

That is why the directive **112/2006/EC** was adopted. It represents the **recast** of the sixth directive – i.e. it comprises sixth directive with all other directives in frame of one text.

The structural harmonization was finished by the implementation of the uniform indirect taxation system.

VAT HARMONIZATION

First step in the process of VAT harmonisation was done in 1967 by the adoption of first directive.Second step was not less complicated due to existence of several facts:

- tax rate harmonization is perceived by the member states as infringement of their national sovereignty;
- tax rates can serve as the tools for fiscal policy – their harmonization do not leave any space for aggregate supply and demand influencing;
- tax rates harmonization can endanger the revenues of state budget in the states, where the revenues from indirect taxation create the substantial part of budget revenues;
- European Commission unwillingness to legally enforce and assure the implementation of directives in to the national tax systems;
- national traditions – it is difficult for the states to abandon them.

VAT RATE APPROXIMATION

In scope of the approximation of tax rates there were proposed different tax bands for the value added tax.

In 1989 the European Commission firstly suggested reduced rate at 4-9% for the basic essentials of life as food, water deliveries, pharmaceutical goods, books, newspapers, magazines and public transport and standard rate at 14-20%.

With effect from 1993 directive 92/77/EEC stipulated the minimal limit for the tax rates. For standard rate the minimum of 15% was set and for reduced rate 5%. Directive also allowed transitional period in which the member states could apply in the area of reduced tax rate the rate lower than 5%.

TAX HARMONIZATION TAX RATES 1ST JANUARY 2020

Member States	Code	Super-reduced Rate	Reduced Rate	Standard Rate	Parking Rate
Belgium	BE	-	6 / 12	21	12
Bulgaria	BG	-	9	20	-
Czech Republic	CZ	-	10 / 15	21	-
Denmark	DK	-	-	25	-
Germany	DE	-	7	19	-
Estonia	EE	-	9	20	-
Ireland	IE	4.8	9 / 13.5	23	13.5
Greece	EL	-	6 / 13	24	-
Spain	ES	4	10	21	-
France	FR	2.1	5.5 / 10	20	-
Croatia	HR	-	5 / 13	25	-
Italy	IT	4	5 / 10	22	-
Cyprus	CY	-	5 / 9	19	-
Latvia	LV	-	5 / 12	21	-
Lithuania	LT	-	5 / 9	21	-
Luxembourg	LU	3	8	17	14
Hungary	HU	-	5 / 18	27	-
Malta	MT	-	5 / 7	18	-
Netherlands	NL	-	9	21	-
Austria	AT	-	10 / 13	20	13
Poland	PL	-	5 / 8	23	-
Portugal	PT	-	6 / 13	23	13
Romania	RO	-	5 / 9	19	-
Slovenia	SI	-	5 / 9.5	22	-
Slovakia	SK	-	10	20	-
Finland	FI	-	10 /14	24	-
Sweden	SE	-	6 / 12	25	-
United Kingdom	UK	-	5	20	-

http://ec.europa.eu/taxation_customs/taxation/vat/index_en.htm

EU VAT LEGISLATION

The main piece of legislation is the VAT Directive (2006/112/EC). Other legislation includes:

- Directive 2008/9/EC (VAT Refund – EU business)
- Directive 86/560/EEC (VAT Refund – non-EU business)
- Directive 2009/132/EC (VAT-free importation)
- Directive 2006/79/EC (private consignments)
- Directive 2007/74/EC (travellers' allowances)

Binding implementing measures to ensure uniform application of the VAT Directive can be found in the VAT Implementing Regulation (Council Regulation (EU) No 282/2011). Those measures are directly applicable without transposition into national law.

http://ec.europa.eu/taxation_customs/taxation/vat/key_documents/legal_framework/index_en.htm

FISCAL BORDERS

In 1991 there was adopted the directive **91/860/EEC** which eliminated the fiscal borders between individual member states and influenced significantly the value added taxation system applied within EU.

The abolishment of the fiscal borders enforced following changes:

- purchase by private entities is taxed exclusively in the state of purchase (abolishment of tax refund) with exception of purchase of the new transport means;
- export and import system were substituted within EU by so called system of intracomunitary acquisition of goods and services (i.e. intracomunitary fulfilment);
- export and import system is applied only with third countries.

EXCISE DUTIES HARMONIZATION

Although the greatest emphasis is put on VAT harmonization in the process of the tax harmonization in the EU, the same problems are appearing in the field of excise duties harmonization, because also these duties can significantly influence the single market.

The attention is mainly aimed at balancing amount of tax rates to avoid the advantage of national producers in the form of lower or zero tax rates. In relation to internal market a number of directives were adopting in the 1990s in this field. All the system of excise duties has been implemented in the EU as a part of the internal market since 1st January 1993.

The initial idea was to harmonize both - the structure and the tax rates of excise duties. The harmonization efforts were transferred rather to the structural field and only the minimum levels of tax rates were set.

EXCISE DUTIES HARMONIZATION

Excise duties harmonization in the EU is based on three groups of directives:

- directive **92/12/EEC** called as **horizontal directive**, which serves as general regulation for the production, holding and transport of products subjected to excise duty;
- so called **structural directive** – related to harmonization of structure of excise duties; is structuralizing excise duties into excise duty on mineral oils, alcohols and alcoholic beverages and tobacco;
- **four directives on approximation of tax rates** of above introduced excise duties.

HORIZONTAL DIRECTIVE

is related to mineral oils, alcohol and alcoholic beverages and tobacco. Directive further enables individual member states to impose above the scope of excise duties also other indirect taxes (for example from environmental reasons). Application of these taxes does not have to signify any formalities during cross-border trade between member states. Directive, except the object of taxes, also defines taxable supply, production, products delivery and tax payments.

The directive is regulating excise duties in general and concrete types of excise duties are regulated by individual directives.

COUNCIL DIRECTIVE 2008/118/EC of 16 December 2008 concerning the general arrangements for excise duty repeal Directive 92/12/EEC

ENERGY PRODUCTS AND ELECTRIC ENERGY

Directive 92/81/EEC comprises unification of basis for tax assessment and adjustment of tax structure in relation to custom tariff. This directive defines which types of mineral oils are object to excise duty.

Directive 2003/96/EC extends taxation of mineral oils to coal, natural gas and electric energy. This directive sets minimum tax rates on energy products in dependence to purpose of the use. It distinguishes between energy products serving as fuel or as a mean for production of electric energy.

ALCOHOL AND ALCOHOLIC BEVERAGES

The harmonization of excise duties is from the very beginning connected with the great unwillingness of individual member states. The main opponents are traditional producers of wine (French, Spain and Italy) and traditional producers of whiskey or liqueurs. For majority of these countries it is very difficult to change excise duties systems which are historically rooted in their tax systems (their beginnings are dating to the Middle Ages). That is why also directive **92/83/EEC** is based on historical classification of products on:

- beer
- wine
- other fermented beverages (unlike beer and wine)
- intermediate product and alcohol.

ALCOHOL AND ALCOHOLIC BEVERAGES - DIRECTIVE 92/84/EEC

Beer, mixture of beer and nonalcoholic beverages with the content of alcohol higher than 0, 5%. Directive also allows member states to impose lower tax rate depending on annual output of brewery.

Wines - two following types:

- non-sparkling wine – wine with content of alcohol 1,2% - 15% and with content of alcohol 15% - 18%;
- sparkling wine – wine with content of alcohol 1,2% - 15%.

Excise duty on intermediate products covers the products with content of alcohol between 1,2% - 22% and which cannot be classified as beer, wine or other fermented beverages.

ALCOHOL AND ALCOHOLIC BEVERAGES - DIRECTIVE 92/84/EEC

Excise duty on ethyl alcohol concerns beverages with content of alcohol higher than 22% and beverages with content of alcohol higher than 1,2% under the codes CN 2207 and 2208. Also in this case the directive allows individual member states to apply lower tax rate in cases of small producers with annual output not exceeding 10 hl of pure alcohol a year. Lower tax rate does not have to be lower than 50% of standard national rate. Directive also allows applying lower tax rate to products with content of alcohol not exceeding 10% - French rum and Greek alcoholic drinks with flavor of anise.

ALCOHOLIC BEVERAGES

Product	**Rate expressed per:**	**Minimum Rate:**
Beer	Hectolitre per degree Plato *or* Hectolitre per degree alcohol	0.748€ 1.87€
Wine (still and sparkling)	Hectolitre of volume	0€
Intermediate Products (e.g. port, sherry)	Hectolitre of volume	45€
Spirits	Hectolitre of pure alcohol	550€

http://ec.europa.eu/taxation_customs/taxation/excise_duties/alcoholic_beverages/alcoholic_beverages/index_en.htm#revision

TOBACCO AND TOBACCO PRODUCTS

The first directive adopted in this field was the directive **72/464/EEC.** This directive includes general regulations related to excise duty on tobacco and specific regulation in the field of structure of excise duty on cigarettes.

Directive **79/32/EEC** classifies tobacco products on basic categories – cigarettes, cigars, cigarillos and tobacco for smoking.

Directive **92/97/EEC** sets the minimal tax rates – total tax has to amount minimally 57% of the selling price and does not have to amount less than 64 EUR for 1000 pieces of cigarettes. Except this, the directive sets that specific tax rate has to be within the range of 5 – 55% of total tax burden.

For the other kinds of tobacco products (cigarillos or fine-cut) the minimal tax rates are set by directive **92/80/EEC**. Directive admits both the ad valorem rate and specific rate.

CIGARETTES

Directive 2011/64/EU requires Member States to levy a minimum rate of excise duties on cigarettes.

This minimum rate must consist of:

- A specific component of between 7.5% and 76.5% of the total tax burden (TTB) - expressed as a fixed amount per 1000 cigarettes
- An ad valorem component - expressed as a percentage of the maximum retail selling price

In addition, the overall excise rate must be:

- At least EUR 90 per 1000 cigarettes
- At least 60% of the weighted average retail selling price

Member States that apply excise duty of EUR 115 or more, however, do not need to comply with the 60% criterion above.

http://ec.europa.eu/taxation_customs/taxation/excise_duties/tobacco_products/cigarettes/index_en.htm

OTHER TOBACCO

Product Category	**Minimum Rate**
Fine-cut smoking tobacco	48% of the weighted average retail selling price* **or** 60 EUR per kilogram*
Cigars and Cigarillos	5% of the retail selling price **or** 12 EUR per 1000 or per kilogram
Other smoking tobaccos	20% of the retail selling price **or** 22 EUR per kilogram

* To gradually increase, by 2020, to 50% or 60€

Member States can choose between applying a specific component or an ad valorem component, or if they wish, they may apply a mixture of the two.

http://ec.europa.eu/taxation_customs/taxation/excise_duties/tobacco_products/cigarettes/index_en.htm

Sample calculation for pack of 20 cigarettes

Retail Selling Price (excluding taxes)	EUR 0.7
+ Excise duty - *specific:*	*EUR* 1.0
+ Excise duty - *ad valorem:*	*EUR* 0.8 *(27% of RSP)*
Total excise duty:	EUR 1.8 *(60% of RSP)*
= Price (excluding VAT)	EUR 2.5
+ VAT 20%	EUR 0.5
= Retail Selling Price (including all taxes)	**EUR 3.0**

Excise duties legislation

- Regulation 2073/2004 EC
- Directive 2008/118/EC
  Repeal Directive 92/12/EEC
- Directive 2011/64/EC
- Directive 92/83/EC
- Directive 92/84/EC
- Directive 2003/96/EC

ENERGY TAX RULES

Current EU rules for taxing energy products and electricity are laid down in the Energy Tax Directive **2003/96/EC**, which entered into force on 1 January 2004.

This Directive includes:

- A common EU framework for taxing motor fuels, heating fuels and electricity
- Minimum rates for energy products used as motor or heating fuel
- Minimum rates for commercial and industrial purposes, such as agriculture, stationary motors and machinery used in construction and public works (Article 8)
- Some options for exemptions for use of energy products and electricity (Article 15)
- Special provisions for commercial diesel (Article 7(2))
- Out of the scope provisions for energy products and electricity (Article 2(4))

ENERGY TAX RULES

Prior the Community framework for energy taxation only covered mineral oils. Directive **2003/96/EC** widened the scope of the minimum rate system to include to all energy products, including coal and coke, natural gas and electricity. It also updated the minimum rates for mineral oils, which had not been revised since 1992.

The aim of this legislation was to reduce distortions caused by divergent national tax rates, remove competitive distortions between mineral oils and other (unlegislated) energy products, and create incentives for energy-efficiency and emission reductions.

http://ec.europa.eu/taxation_customs/taxation/excise_duties/index_en.htm

DIRECT TAX HARMONIZATION

In the 60s of the 20th century there was a very similar structure of the direct taxation in EU states. All the states excluding Italy applied separately the system of corporate income taxation and personal income taxation. But there were huge differences in the methods of tax base construction and in systems of the deductible amounts.

EC was focusing during the harmonization mainly on those types of the direct taxes, where at least the partial harmonization is considered to be the necessary condition for eliminating the bariers to the smooth functioning of internal market - corporate income tax. The integration of the financial markets made capital highly mobile factor, which can quickly move to the states with more advantageous tax regimes. In the frame of practical harmonization the EC decided for the structural harmonization at first and then for the harmonization of the tax rates.

DIRECT TAX HARMONIZATION

In the 1970s and 1980s the wide range of the harmonization efforts failed in this field, because the member state perceived them as the effort to restrict their fiscal sovereignty. The reason of the failure is also the fact that harmonization measures of the European Commission have to be introduced in the form of directives to be obligatory for all member states. The adoption of directive expects unanimity. It very often happens that the harmonization measure is blocked by one or two member states.

DIRECT TAX HARMONIZATION

The fundamental directive is Council Directive **77/799/EEC** of 19 December 1977 concerning mutual assistance by the competent authorities of the Member States in the field of direct taxation. This directive adjusts the exchange of the information, cooperation during ensuring and investigating and presence of the officers of one member state on the territory of another member state from the reasons of control of the multinational companies' activities. In 1997 the validity of this directive was extended and includes the indirect taxes too (especially VAT).

In connection with the establishment of the internal market two very important directives were adopted in 1990 concerning the corporate taxation. Both of these directives are in force since 1993.

DIRECT TAX HARMONIZATION

The first Council directive **90/434/EEC** - the **Merger Directive** regulates deferment of the tax liability resulting from capital yield during merger, business divisions, transfer of assets and cross-border shares exchange within the EU.

The aim of the directive is to avoid taxation of the profit, which can arise during the merger from the difference between value of the transfer of assets and liabilities and their accounting carrying value.

The Merger Directive was amended by the directive **2005/19/EC**, which was adopted particularly in connection with the establishment of the statute of the European company. This directive extends existing competence to European company and European cooperative society as well.

Directive particularly:

- enables transfer of the seats and reorganization of the European company and European cooperative society within the EU without any tax bariers;
- ensures that transformation of the branch to the subsidiary will not have any tax consequences;
- includes a new type of transaction – so called split off.

DIRECT TAX HARMONIZATION

The second directive **90/435/EEC** - The Parent-Subsidiary Directive regulates the system of the taxation of the group of companies, which operate on the national level and companies, which operate within the European Union.

The aims of the directive are following:

- to ensure that member state of the parent company either does not tax the incomes of the subsidiary with the seat in other member state or if these incomes are taxed, it enables parent company to deduct the income tax paid by subsidiary in other member state from the tax base;
- to exempt the distribution of the net profit of the subsidiary from the withholding tax.

DIRECT TAX HARMONIZATION

Directive **2003/123/EC** amends the original Parent-Subsidiary

Directive and extends the competence of directive to:

- distribution of profits obtained from the permanent establishment located in one member state from the subsidiary, which is resident in other member state (different from the state where the parent company is situated);
- distribution of profit of the company to permanent establishments, which are located in other member state than companies and subsidiaries;
- new types of the companies – to the European company and European cooperative society.

DIRECT TAX HARMONIZATION

Convention **90/436/EEC** on the elimination of double taxation in connection with the adjustment of profits of associated enterprises - so called **Arbitration Convention** is valid in the EU since 1995 for the period of five years.

Its aim is to eliminate double taxation which could arise in the case of different interpretation of principle of the transfer pricing in different countries. Until now the validity of the convention has been always extended by other five years.

THE TAX PACKAGE

On 3rd June 2003 the Council has adopted the Tax Package with the aim to restrict the provisions that could cause harmful tax competition.

It comprises three main parts:

- Code of conduct for business taxation;
- Measures for the higher approximation of income from savings taxation systems;
- Agreement on elimination of withholding tax from interests payments and royalties.

CODE OF CONDUCT FOR BUSINESS TAXATION

Is legally not biding, it does have political power because by its adopting member states are obliged not only eliminate existing tax provisions causing harmful tax competition but they can not introduce any new provision of the similar character in the future. The rules are aimed mainly at the provisions which significantly influence the headquarters location. This happens in the cases where non-residents posses advantageous tax condition in comparison with residents.

The Code of Conduct for Business Taxation sets criteria which are used for identification of harmful tax provisions. The deadline for elimination of those provisions was 1st January 2003. Member states will preserve to companies which posses’ benefits from harmful tax competition these benefits until the end of 2005.

SAVINGS DIRECTIVE

Savings Directive **2003/48/EEC** was adopted. The aim of the directive is to enable the taxation of the incomes in the form of interests payments resulting from the member state to persons, who are trying through their residency to decrease or eliminate taxation.

Directive does not concern the incomes of the legal entities; it comprises only the incomes of individuals.

Based on this directive the member states are obliged to provide other member states with information about interests, which were paid off to the individual savers.

INTEREST AND ROYALTIES DIRECTIVE

The uniform system of the interest payments and royalties taxation between associated companies is set in Interest and Royalties Directive **2003/49/EC**.

Directive eliminates withholding tax in case of interests and royalties cross-border payments between associated companies.

THE MODELS OF CORPORATE TAX HARMONIZATION IN THE EU

In environment of the economic and monetary integration the investments are highly sensitive to the differences in the corporate taxation. From the whole economic efficiency point of view, the tax systems should be neutral – decisions about the investment placement should not be influenced by the tax rates. For these reasons the European Commission proposed four possible models of corporate income tax harmonization:

- Home State Taxation
- Common Consolidated Tax Base
- European Union Company Tax
- Compulsory Harmonized Corporate Tax Base

HOME STATE TAXATION

- corporations would use for the taxation of the companies with “European” activities the rules valid in the home country (in which the seat of headquarters is situated)
- system would be optional – corporations could choose, if they will tax their profits in every country differently or if they will be subjected to one tax system under the home state taxation scheme

- This model can lead to increase in tax competition with purpose to attract the companies to set their headquarters in order to tax their European activities (according to the rules valid in this country).

COMMON CONSOLIDATED TAX BASE

Advantages for the corporations:

- pricing between associated companies; the transparency of the effective tax rate
- eliminate the bariers of the multinational mergers and acquisitions in the form of insufficient coordination of the member states during capital profits taxation
- decrease compliance costs of taxation for the companies
- eliminate the problem of transfer
- offset the loss from the activity in one member state against the profit from the activity in other member state

Disadvantages:

- discrimination small companies without European activities
- companies without European activities have to apply home state taxation rules
- the existence of two different taxation systems for the companies opens the space for the speculations, tax fraud and for various types of tax arbitrations.

EUROPEAN UNION COMPANY TAX

this system would introduce the uniform consolidated tax base but only for huge multinational corporations European Union Company Tax would be operating on the EU level and of it would have unified corporate income tax rate within EU

COMPULSORY HARMONIZED CORPORATE TAX BASE

- the uniform tax base for every company in the EU (domestic and multinational)
- does not leave the space for speculation, tax fraud and for various types of tax arbitrations.

In spite advantages the European Commission did not select this system as an objective. The reason is the fact that only this system provides the real harmonization followed by loss of the great part of the national tax sovereignty. Unfortunately, nowadays the member states are not willing to loss such a great part of the national tax sovereignty and it is the reason why the enforcement of the model is not real.

Direct tax legislation

Directive 2011/16/EU

Repeal Directive 77/799/EEC

Directive 2009/133/EC

Repeal Directive 90/434/EEC

Convention 90/436/EEC

Directive 90/435/EEC amended by

2003/123/EC

Directive 2003/48/EC

Directive 2003/49/EC