

1. Research Project Objective - The research project objective is to meet the needs of the international economy, as a result of an in-depth investigation of the digital business models, and a deep analysis of issues, which have been posed before the international tax law by the digital business models, as well through identification, systematization, comprehensive presentation and depicting the effective means of taxation of the entrepreneurs acting in the digital business models, having regard the efforts and achievements of selected jurisdictions, multinational organizations, as well as international tax law doctrine. As a result of the research there will be given an answer to the following questions: 1) does the fair and effective taxation of the digital business models require just a transformation of the international tax law by its tightening up, or there should be established new basic rules of income taxation (e.g. replacing Schanz-Haig-Simons income tax by consumption-based tax); 2) which one from the alternative models in international tax policy will be the most appropriate for the digital business models with all of their distinguishing features.

2. Significance of the project - *“Europe must learn to defend its economic interest much more firmly - China does it, the U.S. does it. You cannot take the benefit of doing business in France or in Europe without paying the taxes that other companies - French or European companies - are paying”*¹ The issue of taxation of the digital economy is nowadays as high on the international, political agenda, as these matters, which have been traditionally recognized as the most vital issues of the whole international society – just as the climate change². Fundamental institutions of the international tax law were created in the 19th and 20th century (Prussian conception of Betriebsstätte) – when the only way to conduct business was using the traditional business models. Therefore, at that time, the rational manner of tax claims' allocation could be grounded on a physical presence rule.³ Nowadays, the basic feature of the digital economy is a lack of physical presence, while pursuing activities, which in the traditional economy required such a presence. The essence of presented issue is that the digital business models enable to pursue economic activity without a physical presence in the territory of a certain jurisdiction. In such a case, the profit, generated on a wide scale, remain non-taxed in the source state. Having regard the current shape of the international tax law and a lack of an effective mean of reaction, the European Commission is still called as “vulnerable”⁴ to tax planning activities, made by entrepreneurs using digital business models, for the reason of the current shape of the international tax law institutions. A lack of effective means of taxation of the digital business models resulted in application institutions established outside the scope of the tax law - namely rules concerning competition law and state aid.⁵ Also the OECD has not undertaken any effective mean of reaction to tax effectively the digital business models (as it is stated in legal writing, OECD has rather “addressed”, than “met” the challenges posed by the digital economy before the tax law). New regulations, which are required to be urgently established will have a fundamental importance for the economic reality of the international tax law of the digital millennium, at the beginning of which we are living now. As a result of the research, a representative of Polish doctrine can become not only a commentator and a passive witness of the rudimentary transformation of the international tax law, but an co-initiator of the new solutions, which may influence the shape of income taxes of the 21st century. The research will be carried out on the ground of the analysis of the legal acts, official documents of the OECD, UN, European Union institutions, judgments (of both national and international courts), tax authorities' practice, legal writing (actually solely international and foreign authors), economical data, consultations with the most prominent representatives of the international legal writing, as well as discussions during international and national academic conferences.

¹ Bruno Le Maire, Finance Minister of France, press statement for Bloomberg, 7th August 2017.

² As an example, M. A. Kane invokes the G20 Summit in Brisbane, Australia. See gen.: M.A. Kane, A defense of source rules in international taxation, Yale Journal on Regulation 2015 Iss. 2, Art. 4, p. 312.

³ E.g. through an office, a factory, a workshop, a mine, a quarry. This exemplification is still included in the OECD Model Tax Convention, as well as in all of the treaties on avoidance on double taxation.

⁴ That term is used by the Dutch European Parliament Member, P. Tang, in the Report: P. Tang, H. Bussink, EU Tax Revenue Loss from Google and Facebook, 2017, p. 3 access: <https://paultang.pvda.nl/> [30th May 2018].

⁵ According to the European Commission, income of Apple was taxed in Ireland with an effective tax rate 0,005%, what was deemed to be an illegal state aid. Ireland was obliged to exact from the MNE 13 billion euro of taxes (as a result of applying a tax rate of only 1%). For failure in fulfilling that obligation, the Commission referred Ireland in 2017 to the Court of Justice of the European Union. See: Press statement of the European Commission of 4th October 2017, access: http://europa.eu/rapid/press-release_IP-17-3702_en.htm [30th May 2018]. In March 2018, European Commission presented action plan, concerning effective taxation of the digital business models within the European Union and proposed two solutions: one definitive (grounded on the CCCTB concept) and one temporary (a new indirect tax).