

Prof. Dr. Werner Haslehner
ATOZ Chair for EU and Int'l Tax Law
University of Luxembourg

PRINCIPLES FOR EU TAXES

AALS 2024 Annual Meeting
Marquis Marriott Washington D.C.
January 3-5



UNIVERSITÉ DU
LUXEMBOURG

1) Introduction: A principle-based tax policy for the EU

□ FACULTY OF LAW, ECONOMICS AND FINANCE



- Point of departure: the EU has decided to levy its own taxes
- What principles ought to govern the creation, design and enforcement of such ‘EU Taxes’?
- Considering European and national constitutional principles as well as normative principles derived from tax scholarship
- Seeking to categorize different principles at a high level as *principles of coordination, formal principles, material principles, and structural principles.*

2) 'Coordination Principles' for EU Taxes

□ FACULTY OF LAW, ECONOMICS AND FINANCE

- **Principle 1: Consistency with monetary and economic policies**
→ support economic integration as well as fiscal positions in all Member States
- **Principle 2: Link between EU taxes and EU budgetary responsibilities**
→ connect EU taxes to areas of EU administrative action (e.g. CBAM)
- **Principle 3: Coordination of EU taxes with core policies pursued by the EU**
→ link creation and design of EU taxes to support core objectives (e.g. plastics levy)

3) Formal Principles for EU Tax Law Making

□ FACULTY OF LAW, ECONOMICS AND FINANCE



- **Principle 4: Democratic Principle**

- ‘no taxation without representation’ and the role of parliament(s) in the EU

- **Principle 5: Rule of Law**

- no arbitrary enforcement, judicial review, compliance with other legal principles

- **Principle 6: Legality of Taxation**

- Legal basis for imposing taxes, statutory basis defining substantive tax features

- **Principle 7: Compatibility with International Law**

- EU is bound to strict observance of *its own* obligations under international law

4) Material Principles for EU Taxes

□ FACULTY OF LAW, ECONOMICS AND FINANCE

- **Principle 8: Equality**

- Article 2 and 9 TEU; Article 20-23 EU Charter of Fundamental Rights

- **Principle 9: Anti-Abuse**

- CJEU Case law requiring Member States to prevent tax abuse

- **Principle 10: Dignity**

- Article 1 EU Charter. Implications for taxation?

- **Principle 11: Sustainability**

- Supporting a stable and sustainable balance of payments at EU level

5) Structural or Relational Principles for EU Tax Law Making

□ FACULTY OF LAW, ECONOMICS AND FINANCE



- **Principle 12 & 13: Proportionality and Subsidiarity**
 - Union exercise of competence is limited to ‘necessary’ action
- **Principle 14 & 15: Primacy and Preemption**
 - EU law takes priority over national laws; what does EU tax law making mean for Member State tax systems?
- **Principle 16 & 17: Hierarchy and Compensation**
 - How to ‘order’ EU and national taxes? Must Member States be compensated for EU ‘taking over’ certain taxes?

Thank you for your attention!

Contact me at

werner.haslehner@uni.lu

