



# The inclusion of insurance services in the European VAT system—a problem that cannot be solved?

Otto A. Altenburger · Rudolf Diewald · Max Götttsche

Accepted: 10 September 2022 / Published online: 17 October 2022  
© The Author(s) 2022

**Abstract** In the European Union insurance premiums are not subject to value added tax (VAT), but—in most member states—to special taxes. As these and VAT on inputs are not recoverable there are high cumulative and hidden tax burdens. However, the inclusion of insurance (and other financial services) in the VAT system poses serious conceptual problems. Solutions suggested and discussed in literature as well as relevant regulations in countries outside Europe do not meet the principles constituting the European VAT system. The paper develops a realizable proposal for the inclusion of insurance services in this system meeting its constituting principles.

**Keywords** Value added tax (VAT) · Insurance · European Union

**JEL Classification** G22 · H25

---

Otto A. Altenburger (✉)  
Department of Accounting, Innovation and Strategy, University of Vienna,  
Oskar-Morgenstern-Platz 1, 1090 Vienna, Austria  
E-Mail: otto.altenburger@univie.ac.at

Rudolf Diewald  
Former department head of the Austrian Association of Insurance Undertakings, Vienna, Austria  
E-Mail: rudiewald@a1.net

Max Götttsche  
Ingolstadt School of Management, Catholic University of Eichstätt-Ingolstadt, Ingolstadt, Germany  
E-Mail: max.goettsche@ku-eichstaett.de

## Die Einbeziehung von Versicherungsumsätzen in das EU-Mehrwertsteuersystem – ein unlösbares Problem?

**Zusammenfassung** In der Europäischen Union unterliegen Versicherungsprämien nicht der Mehrwertsteuer, sondern – in den meisten Mitgliedstaaten – speziellen Steuern. Da diese und die Vorsteuer der Versicherungsunternehmen nicht erstattungsfähig sind, entstehen hohe kumulative und versteckte Steuerlasten. Die Einbeziehung der Versicherung (und anderer Finanzdienstleistungen) in das Mehrwertsteuersystem wirft jedoch schwierige konzeptionelle Probleme auf. Weder die in der Literatur dazu vorgeschlagenen und diskutierten Lösungen noch die einschlägigen Regelungen in außereuropäischen Staaten erfüllen die das europäische Mehrwertsteuersystem konstituierenden Grundsätze. Der Beitrag entwickelt einen einfach umsetzbaren Vorschlag für die Einbeziehung von Versicherungsdienstleistungen in dieses System, der diese Grundsätze erfüllt.

**Schlüsselwörter** Mehrwertsteuer · Umsatzsteuer · Versicherung · Europäische Union

### 1 Problem, aim, and structure of the paper

The current taxation of insurance services in the European Union (Sect. 2) involves severe disadvantages and is completely out of place in an economic area using a value added tax (VAT) system. Accordingly, the European Commission tried already more than 25 years ago to include insurance (and other financial services) in the VAT system. However, it did not succeed—not only because of political opposition and technical difficulties but also, first of all, because this inclusion poses serious conceptual problems.

It is far from easy to determine on which basis VAT shall be calculated, especially for insurance contracts comprising a saving process. Such life insurance contracts play an important part in old-age provision. It is also difficult to find an adequate solution for the recoverable VAT on inputs of insurance companies. To be acceptable any solution has to meet the principles constituting the European VAT system. These principles are derived and described in Sect. 3.

Literature contains only few statements and suggestions concerning the inclusion of insurance (and other financial services) in the European VAT system. These proposals are presented in Sect. 4 together with the relevant Australian regulations where insurance premiums, at least partly, are taxed within a VAT system similar to that of the European Union. These solutions are examined in the light of the principles constituting the European VAT system.

As they do not meet these principles Sect. 5 develops a new proposal for the inclusion of insurance services in the European VAT system which meets its constituting principles and is realizable.

Sect. 6 concludes.

## 2 Starting point: The current taxation of insurance turnover in the European Union

### 2.1 VAT exemption not qualifying for input tax relief

The basic regulation of the European VAT system is the so-called Value Added Tax System Directive (VATSD).<sup>1</sup> Whereas art. 2 par. 1 lit. c VATSD provides the general obligation that “the supply of services” “shall be subject to VAT” the exemption article 135 starts with the following sentence (par. 1): “Member States shall exempt the following transactions: (a) insurance and reinsurance transactions, ...”

This tax exemption for insurance and reinsurance is one not qualifying for input tax relief. Therefore, for insurance and reinsurance companies VAT payments connected to purchases are recoverable only to the—usually very low—extent as their turnover is subject to VAT, e.g. the sale of used office furniture.

### 2.2 Taxation of premiums

Many member states of the European Union—like Germany and Austria—collect insurance taxes using the insurance premiums as taxation base. Germany, Austria, and some other countries additionally impose a so-called “fire protection tax” on fire premiums and the fire parts of insurance contracts covering several risks including fire. Detailed rules, tax rates and exemptions differ significantly among the member states imposing those taxes.<sup>2</sup> All of them are not recoverable.

Art. 401 VATSD allows the collection of “taxes on insurance contracts” and other charges “which cannot be characterised as turnover taxes” and do “not give rise, in trade between Member States, to formalities connected with the crossing of frontiers”. As insurance and similar taxes do not possess the characteristic attributes of the VAT, they are compatible with the common VAT system of the European Union.<sup>3</sup> According to the opinion of the European Court of Justice (ECJ)<sup>4</sup> the VAT exemption of insurance turnover aims at avoiding to levy two indirect taxes on the insureds. Therefore, the ECJ would probably call in question to maintain insurance and similar taxes at lifting the VAT exemption for insurance turnover although it would not be impossible as long as art. 401 VATSD is in force.

### 2.3 Implications for insurance undertakings and insureds

The non-deductibility of a large part of the VAT paid to suppliers induces turnover tax burdens for the insurance undertakings which contradict the VAT system because these burdens should be generated with the final consumers. The different designs of the insurance and similar taxes lead to competition distortions, especially if a country links the taxation of insurance premiums to the domicile of the insurance

<sup>1</sup> Council Directive 2006/112/EC, since then amended several times (Council Directive 2006).

<sup>2</sup> For a survey cf. Cnossen (2013, pp. 869–873).

<sup>3</sup> Cf. ECJ 29 April 2004, C-308/01.

<sup>4</sup> Cf. ECJ 25 February 1999, C-349/96.

undertaking while the insured has its domicile in another country and the latter links the tax liability to the domicile of the insured.

The non-deductibility of a large part of input taxes for the insurance undertakings and the non-deductibility of insurance and similar taxes create cumulative burdens for the insureds (tax cascading), which often are higher than the ordinary turnover tax burden and can reach enormous dimensions.<sup>5</sup> As insurance premiums and the respective taxes are paid at all stages of production and distribution, there is no transparency for the insureds regarding the real amount of taxes paid with insurance premiums.

## 2.4 Conclusions

As the described tax treatment of insurance turnover shows significant disadvantages for insurance undertakings and insureds and furthermore constitutes an alien element in an economic area which basically uses the VAT system, it should be replaced by the inclusion of insurance services in the current VAT system. This inclusion should satisfy the principles constituting this system.

## 3 Requirement for the solution: Compliance with the system-constituting principles of the VAT system of the European Union

### 3.1 Sources of the system-constituting principles and their relationship

The VATSD does not contain a summarising enumeration of the system-constituting principles of the VAT system which it prescribes, but formulates these principles in various, though important places including the preamble with its recitals, which is—as with all other EU directives—binding in the same way as the main text of the directive. As the ECJ has derived these principles from the VATSD or its synonymous predecessors and has used them for their interpretation in a great number of rulings they can be considered to be very well proven.<sup>6</sup>

Within the system-constituting principles of the European VAT system there is no hierarchy. They rather coexist with equal importance, and the ECJ hardly ever finds conflicting situations between the different principles. Accordingly, there are no legal arguments for the order of the principles chosen in the following, but only didactical ones.

### 3.2 The principle of tax neutrality

The first sentence of the fifth recital of the VATSD reads: “A VAT system achieves the highest degree of simplicity and of neutrality when the tax is levied in as

<sup>5</sup> Cf. Medert (2006); at present even worse due to higher tax rates. For legal objections cf. Frey (2000, pp. 53 f.).

<sup>6</sup> Cf. Ruppe and Achatz (2018, Einführung, Rz 30–57). For an alternative presentation of (not all of) these principles cf. de la Feria (2016, pp. 4–7).

general a manner as possible and when its scope covers all stages of production and distribution, as well as the supply of services.”

The tax, therefore, must be “levied in as general a manner as possible” (principle of general taxation); it must be designed to cover the totality of all turnovers and all transactions relating to objects and services respectively to obtain—at least basically—an equal tax treatment of all economic activities. Consequently, the scope of the tax has to comprise “all stages of production and distribution, as well as the supply of services” (principle of all-phase taxation).

To comply with the principle of tax neutrality insurance turnover has to be subject to VAT. Otherwise the principle of general taxation and the all-phase principle are violated. All insurance and similar taxes violate these two principles as well.

### 3.3 The principle of neutrality in competition

The seventh recital of the VATSD states: “The common system of VAT should, even if rates and exemptions are not fully harmonised, result in neutrality in competition, such that within the territory of each Member State similar goods and services bear the same tax burden, whatever the length of the production and distribution chain.”

Equal tax treatment, that means equal tax burdens, should, therefore, be applied to undertakings combining different numbers of stages of the production process, but offering the same good or service as well as to “similar goods and services”. According to the jurisdiction of the ECJ goods and services are similar if they compete with each other,<sup>7</sup> and the similarity criterion has to be interpreted narrowly.<sup>8</sup>

To accomplish the neutrality of the VAT system between undertakings competing with each other, all undertakings must be entitled to deduct their VAT payments at procurements from their VAT levies resulting from their turnovers. This input tax relief achieves that purchases are not levied with VAT, and undertakings integrating several stages of the production process are not favoured by the VAT system. Therefore, the ECJ referred to the mechanism of input tax relief as “a basic feature of the VAT system”.<sup>9</sup>

According to the principle of neutrality in competition also foreign undertakings delivering goods or services for domestic consumption have to be treated in the same way regarding VAT as home country undertakings. The fourth recital of the VATSD says: “The attainment of the objective of establishing an internal market presupposes the application in Member States of legislation on turnover taxes that does not distort conditions of competition or hinder the free movement of goods and services. It is therefore necessary to achieve such harmonisation of legislation on turnover taxes by means of a system of value added tax (VAT), such as will eliminate, as far as possible, factors which may distort conditions of competition, whether at national or Community level.”

In accordance with the destination principle, which is currently applied, the value added taxation follows the rules of the country of destination of the good or service;

<sup>7</sup> Here a great number of decisions of the ECJ could be cited.

<sup>8</sup> Cf. ECJ 3 May 2001, C-481/98.

<sup>9</sup> ECJ 24 October 1996, C-317/94.

this system requires a VAT frontier cut by tax exemption in the country of origin providing input tax relief. The application of the destination principle shall, however, be only a temporary solution; the country-of-origin principle is envisaged as final regulation,<sup>10</sup> i.e. a value added taxation in the country of origin of the good or service. This would imply a harmonisation of the VAT rates in the European Union, which for the time being seems politically unattainable.

The principle of neutrality in competition also requires the inclusion of insurance services in the VAT system, including the right of insurance undertakings to input tax relief. Care has to be taken to apply the same VAT treatment to services of insurance undertakings and to competing services like loss prevention, assistance in the case of emergency while absent from home, indemnification in the case of unemployment, illness, and accidents, or old-age provision.

### 3.4 The principle of proportionality

Art. 1 par. 2 VATSD starts with the following subparagraph: “The principle of the common system of VAT entails the application to goods and services of a general tax on consumption exactly proportional to the price of the goods and services, however many transactions take place in the production and distribution process before the stage at which the tax is charged.”

An exactly proportional consumption tax is observed if the levied VAT for each single turnover is exactly determinable—and not calculated based on the gross amount of all earnings<sup>11</sup>—and results by application of a certain percentage to the return received by the undertaking. Different tax rates as well as tax exemptions violate the principle of proportionality.

To fulfill the principle of proportionality the turnover tax on insurance services must be imposed with a certain percentage of the insurance premiums. It is not allowed to use sums insured, floor space insured or similar measures as tax base.

### 3.5 The principle of burdening the final consumer

From art. 1 par. 2 VATSD (already cited in subsection 3.4, “a general tax on consumption ... however many transactions take place in the production and distribution process”) in connection with the seventh recital of the VATSD (already cited at the beginning of subsection 3.3 above, “whatever the length of the production and distribution chain”) follows that only the final consumer should be levied with VAT.<sup>12</sup>

The taxation object is the expenditure of the final consumer for her or his consumption or personal use—in contrast to the purchase of goods or services for an economic activity, where the notion of “economic activity” has—according to the understanding of the ECJ<sup>13</sup>—to be interpreted widely because the VAT system aims at incorporating all stages of production, distribution, and services. The expression

<sup>10</sup> Cf. art. 402 VATSD.

<sup>11</sup> Cf. ECJ 19 March 1991, C-109/90.

<sup>12</sup> Cf. ECJ 24 October 1996, C-317/94.

<sup>13</sup> Cf. ECJ 4 December 1990, C-186/89.

“burdening the final consumer” is to be understood in terms of taxation techniques; it is irrelevant whether the final consumer has to bear the VAT burden economically or can—at least partially—avoid it by negotiating lower prices.

Only for reasons of practicability the VAT is not collected directly from the consumer, but at the transaction of the undertaking, which “act[s] as tax collector[s] for the State”.<sup>14</sup> The undertaking which delivers goods or renders services to the final consumer shall not be charged with VAT, nor shall any of the undertakings at previous stages of production and distribution. The mechanism of input tax relief ensures that the VAT represents only a transitory item in the chain of undertakings and only comes into effect at the final consumer. The principle of burdening the final consumer is watered down if undertakings have to bear a VAT burden because of restrictions of input tax relief in contradiction to the VAT system. On the other hand, there is no violation of the principle of burdening the final consumer if a tax exemption of the final consumer is combined with unlimited input tax relief for the delivering or rendering undertaking and its predecessors in the chain of undertakings. Of course, every tax exemption contradicts the principle of tax neutrality and possibly the principle of neutrality in competition.

To comply with the principle of burdening the final consumer the input tax relief for insurance companies, when completely integrated into the VAT system, must not be limited. The calculation of the correct amounts of their input tax relief is, however, not an easy task.

### 3.6 Conclusions

From the presented system-constituting principles of the VAT system of the European Union follows that the VAT has to be a net all-phase turnover tax with input tax relief which is collected at all commercial transactions with final consumers, whether delivery of goods or rendering of services. Several different tax rates and tax exemptions should be avoided or at least be designed respecting the principle of neutrality in competition.

According to these principles insurance turnover undoubtedly should be subject to VAT, and insurance companies should be entitled to input tax relief without limitations.

## 4 Solutions suggested so far: Presentation and appraisal

### 4.1 Introduction and overview

In the light of the conclusions just drawn it does not surprise that the European Commission, as mentioned in the first section of this paper, has taken the initiative to integrate financial services into the VAT system already more than 25 years ago. It tried to reach that goal using the taxation concept developed by Poddar. This concept, however, was received with very broad resistance so that the European Commission

---

<sup>14</sup> ECJ 20 October 1993, C-10/92.

refrained from the project and initiated only changes in details of the VAT treatment of financial services,<sup>15</sup> but not their full taxation (with input tax relief).

Poddar had proposed to carry out the turnover taxation of financial services based on the so-called TCF/TCA method. Obviously, literature contains only one other concept to this topic applicable to insurance,<sup>16</sup> namely the taxation of the value added of financial undertakings.

VAT systems outside the European Union usually treat insurance services similar to the European Union, but there is a trend to include non-life insurance in the VAT systems, following “New Zealand (the leader in taxing nonlife insurance under the VAT)”<sup>17</sup> and its Goods and Services Tax (GST) introduced 1986 with a standard rate of 15%. Australia, Singapore, and South Africa have established regulations similar but not equal to New Zealand,<sup>18</sup> during the last years comparable initiatives have been started in China, India, Kosovo, and Tanzania.<sup>19</sup> Although some authors<sup>20</sup> recommend the New Zealand approach for non-life insurance<sup>21</sup> the Australian system is presented here because it is, developing the New Zealand model further,<sup>22</sup> closer to the VAT system of the European Union.<sup>23</sup>

## 4.2 The TCF/TCA method by Poddar (and English)

“TCF/TCA method” stands for “Truncated Cash-Flow Method with [a] Tax Calculation Account”.<sup>24</sup> The first part of the term expresses that the method is founded on cash flows, but does not use them directly for turnover taxation.

A turnover taxation based on cash flows would work as follows: All cash inflows (except for capital contributions and increases) trigger the obligation to VAT payments, while all cash outflows (except for capital reductions and dividend distribution) trigger VAT input relief claims. This taxation system should solve the problem that rendered services are not linked with attributable fees—like commissions for sales or loan handling fees—, but are remunerated obliquely, e.g. by the difference between loan payout and repayment or between credit and deposit interest rates, so that an adequate VAT base is missing. To avoid that, e.g., an enterprise taking out a loan has to pay VAT, which it gets back at repayment of the loan, a “Tax Calculation Account” shall be set up for each client, and respite for the VAT payment shall be granted until an offsetting possibility emerges.

<sup>15</sup> Cf. Europäische Kommission (2006); Commission of the European Communities (2007); Behrens (2008); Kapeller (2008); Kunz (2008); Schlüter (2010, especially pp. 396f.); Sagh (2015, pp. 423–425).

<sup>16</sup> For other taxation concepts for financial services cf. López-Laborda and Peña (2018, pp. 159–165).

<sup>17</sup> Schenk and Zee (2004, p. 73).

<sup>18</sup> Cf. *ibid.*, p. 73f. Moodley (2016) does not deal with insurance.

<sup>19</sup> Cf. EY (2015, pp. 2–5). The country list is not exhaustive.

<sup>20</sup> Cf. Schenk and Zee (2004, p. 74); Cnossen (2013); Papis-Almansa (2017, pp. 278–284).

<sup>21</sup> Cf. Papis-Almansa (2017, pp. 115–122, 187–193, and 241–252). For possible extensions to other financial services cf. van Schalkwyk and Prebble (2004).

<sup>22</sup> Cf. Papis-Almansa (2017, p. 135).

<sup>23</sup> Cf. *ibid.*, pp. 80–82.

<sup>24</sup> Cf. Poddar and English (1997) and for basic ideas Barham et al. (1987); Poddar (2007, pp. 190–203).



Without going into detail, it can be stated that for insurance undertakings the method is based on wrong prerequisites: With the premiums there always exists a taxation base which basically—apart from a saving component—represents the services rendered by the insurance undertaking. No matter how the input tax relief problem is solved, it is not necessary to depart so fundamentally from the VAT system of the European Union when integrating insurance undertakings as the TCF/TCA method.

### 4.3 Taxation of the value added of financial undertakings

In the literature the integration of financial undertakings into the system of value added taxation is also discussed on the basis of taxing their value added.<sup>25</sup> The basic idea is to follow the treatment of financial undertakings in the concept of the European System of Accounts for their VAT taxation. For insurance undertakings the following tax base is found: earned premiums+ investment returns from technical provisions – claims payments – (+) changes of actuarial provisions and the provisions for profit participation of the insureds.<sup>26</sup>

Taxing the value added is an enlarged taxation of profits or—more generally—of results. As in the case of taxing cash flows balances are calculated which shall show what the undertaking has “generated” during an accounting period. As the method does not use single transactions the principles of the VAT system of the European Union cannot be met.

### 4.4 The treatment of insurance in the VAT system of Australia

The Australian Goods and Services Tax (GST), introduced 2000, is a VAT with a standard rate of 10% and input tax relief.<sup>27</sup> It integrates non-life insurance. Life insurance contracts are—like other financial services—exempt,<sup>28</sup> and life insurance undertakings are not entitled to input tax relief. There is one exception from this principle: If the life insurance undertaking buys certain financial services, e.g. capital investment management, from another undertaking it is allowed to set off three quarters of the GST paid as input tax relief.

In non-life insurance all premiums are, on principle, subject to GST; exempt are health insurance (but not corresponding reinsurance) and insurance of foreign risks. Regardless of these exemptions the insurance undertaking is entitled to full input tax relief from its purchases. This includes purchases of replacement goods if it offers compensation in kind. If compensation is made in money instead the extent of input

<sup>25</sup> Cf. KPMG (2002, pp. 3 and 26 ff.); López-Laborda and Peña (2018, pp. 165–176); especially for insurance undertakings Chini and Uri (2002, p. 18).

<sup>26</sup> According to Diewald in a presentation 2002 on the basis of the weights for insurance in the European Harmonised Indices of Consumer Prices (HICP) according to art. 3 of the Commission Regulation (EC) No 1617/1999 (EC 1999).

<sup>27</sup> Cf. Mann (2018); especially for insurance Krever and Teoh (2017) and Papis-Almansa (2017, pp. 122–133, 193–200, and 252–272). For possible extensions to other financial services cf. de la Feria and Walpole (2009) and Walpole (2013, pp. 19 ff.).

<sup>28</sup> The term “exempt” is not used in Australia, but the presentation follows the conventional terminology.

tax relief of the insurance company depends on the extent of input tax relief of the insured: If, e.g., the insured is an undertaking which can set off only two thirds of the paid input GST because one third of its sales is exempt from GST the insurance company has to pay one third of the corresponding GST in addition to the net claim amount and, consequently, can set off only this third as input tax relief. Whether the payment is made directly to the insured or to an undertaking repairing the damage for the insured, e.g. a car repair shop, is irrelevant. No input tax relief is granted to the insurance undertaking if it has to pay a certain amount in case of an insured event, e.g. an accident, regardless whether material damage occurs.

The VAT system of Australia largely corresponds with the VAT system of the European Union. But regarding insurance services the principles of the European system are not complied with completely; especially the varying modes of input tax relief in non-life insurance and the (almost) complete exclusion of life insurance have to be mentioned.

## 4.5 Conclusions

A solution for the integration of insurance services into the VAT system of the European Union which meets its system-constituting principles has not yet been found.<sup>29</sup> It is even argued that such an integration is not feasible in practice.<sup>30</sup>

The treatment of non-life insurance in the Australian VAT system shows that the integration of insurance services into a VAT system is basically possible. Therefore, it seems worth developing a proposal<sup>31</sup> how insurance services can be integrated into the European VAT system respecting its system-constituting principles.

## 5 Suggested solution

### 5.1 The basic idea: Exclusion of explicit saving components of insurance contracts

It is beyond controversy<sup>32</sup> that the insurance business is inseparably linked with a saving and capital investment process respectively because premiums have normally to be paid in advance whereas insured events occur randomly distributed over the period of insurance cover and can be settled only with—in some cases considerable—delay. This does not mean, however, that the premiums contain saving components; on the contrary: The expected investment returns reduce the premium amount which would have to be demanded and paid respectively without these re-

<sup>29</sup> Papis-Almansa (2017) does not present a proposal for life insurance, which is “more complex” than non-life insurance and requires further research (p. 279).

<sup>30</sup> Cf. Barham et al. (1987, pp. 177–180), and Edgar (2007, pp. 160f.), for life insurance; Holzheu (2000, pp. 105–107), referring only to non-life insurance because he does not examine life and health insurance.

<sup>31</sup> Based on the habilitation thesis of Göttsche (2007, unpublished).

<sup>32</sup> Boadway and Keen (2003, p. 68), speak of “pure insurance” as “insurance with no savings element”. The same view takes Schmidt (1999, p. 225).

turns. Another saving and capital investment process is linked with life and health insurance products with—apart from inflationary adjustments—constant premiums (“level premiums”) while mortality rates and sickness rates increase with increasing age; those parts of the excessive premiums at the beginning of the contract which are invested serve to complement the too low premiums at its later stage so that the saving and capital investment process comes to an end during the (calculated) contract period.<sup>33</sup> These saving components inseparably linked with the insurance business can be called *implicit saving components*.<sup>34</sup>

By contrast,<sup>35</sup> *explicit saving components* of insurance contracts can be separated from them. They are found if it is certain that the insurance undertaking has to make a payment in any case, either—like with all other insurance contracts—because an or the insured event occurs or because the insurance contract ends without occurrence of an insured event until then. Typical examples for insurance contracts with explicit saving components are endowment assurance and accident insurance with refund of premiums (which repays all premiums—of course, calculated higher accordingly—at the end of the contract period if the insured person has not suffered any accident). Insurance contracts with explicit saving components contain the implicit saving components presented above as well; only the former ones can be separated from the insurance contracts.

This separation fulfills the requirements of the VAT system of the European Union: The part of the premium which is not used for the risk-bearing by the insurance undertaking, but is explicitly paid to be invested by the insurance undertaking does not represent a consumption,<sup>36</sup> but a saving (possibly for later consumption).<sup>37</sup> Insurance contracts with an explicit saving component are, therefore, only to be integrated into the European VAT system without this component.

The separation of the explicit saving component can be calculated with reasonable effort. For each insurance contract with an explicit saving component exists an analogous contract without this component. For the same insured person, the same contract period, and the same sum insured, the—much lower—premium for a term assurance (covering only the risk of death) or accident insurance without refund of premiums can be stated without any problem. Even if an insurance undertaking does not offer such contracts it knows (and can document) these premiums because they are part of its premium calculations. The claims payments to insureds can also be assigned easily: If they are carried out at the end of the contract period (without an insured event) they belong to the explicit saving component and remain outside the VAT system.

<sup>33</sup> The latter saving and capital investment process is dealt with by Barham et al. (1987, pp. 176 f.).

<sup>34</sup> For the naming of the saving components cf. Altenburger (2006, pp. 130–132), and Altenburger et al. (2008, pp. 171–173).

<sup>35</sup> Barham et al. (1987, p. 172), Schmidt (1999, pp. 225 and 252), and Papis-Almansa (2017, p. 59), do not differentiate between different types of saving components.

<sup>36</sup> Cf. Schenk and Zee (2004, p. 72); Papis-Almansa (2017, pp. 79 ff., especially p. 88).

<sup>37</sup> Surprisingly, Friedrich-Vache, who examines bank (not insurance) services and proposes full input tax relief, comes to the conclusion that saving should be the only bank service subject to VAT; cf. Friedrich-Vache (2005, pp. 202 ff., especially pp. 228–245, and 2006, pp. 213 ff.).

## 5.2 Calculation of the input tax relief

The turnover tax paid by the insurance undertaking for purchases of goods and services must be recognised entirely as input tax relief. It is irrelevant whether the goods or services are used for business activities (in the narrower sense) or for indemnifications in kind to the insureds.

In the—very frequent—case of indemnification in money instead of indemnification in kind the insurance undertaking should—like in Australia—be entitled to input tax relief dependent on the insured's entitlement to input tax relief. For reasons of equal treatment, this has to apply also to the case of claims payments the amounts of which follow from the insurance contract and not from actual damages. Equal treatment has to be ensured not only between indemnifications in kind and indemnifications in money but also between all insurance contracts (excluding the explicit saving components): All claims payments—regardless whether they are amounts agreed upon or based on actual damages—as well as indemnifications in kind are elements of the calculation of the premium and are covered by the premium. If the premiums are evenly subject to VAT also claims payments and indemnifications must evenly lead to input tax relief.

## 5.3 Avoiding distortions of competition in the European Union

Violations of the principle of neutrality in competition can be simply avoided if taxation follows the location of the insured risk. Risks not related to real estate, business premises, or vehicles should be assigned according to the domicile of the insured person or undertaking. If a person has domiciles in more than one member state the residence used in an official document (such as identity card or passport) presented at taking out the insurance policy could be decisive. In this case the domicile of the insurance undertaking and the location of the office or server involved in the issue of the insurance contract would not be relevant for VAT purposes.

## 6 Conclusions

Insurance services can be integrated into the VAT system of the European Union without violating its system-constituting principles. Insurance premiums are to be subject to VAT excluding explicit saving components. On principle, insurance undertakings are to be entitled to full input tax relief, but from claims payments only to the extent they have to reimburse VAT to the insured; claims payments triggered by the end of an insurance contract (without an insured event) have to be excluded completely because they belong to explicit saving components. Remaining violations of the system-constituting principles of the VAT system of the European Union would be restricted to those quite normal in other economic sectors, especially by different VAT rates in the different member states of the European Union.

**Funding** Open access funding provided by University of Vienna.

**Open Access** This article is licensed under a Creative Commons Attribution 4.0 International License, which permits use, sharing, adaptation, distribution and reproduction in any medium or format, as long as you give appropriate credit to the original author(s) and the source, provide a link to the Creative Commons licence, and indicate if changes were made. The images or other third party material in this article are included in the article's Creative Commons licence, unless indicated otherwise in a credit line to the material. If material is not included in the article's Creative Commons licence and your intended use is not permitted by statutory regulation or exceeds the permitted use, you will need to obtain permission directly from the copyright holder. To view a copy of this licence, visit <http://creativecommons.org/licenses/by/4.0/>.

## References

- Altenburger, O.A.: Neue Argumente gegen eine Prämientrennung. In: Siegel, T., Klein, A., Schneider, D., Schwintowski, H.-P. (eds.) *Unternehmungen, Versicherungen und Rechnungswesen*, Festschrift zur Vollendung des 65. Lebensjahres von Dieter Rückle, pp. 129–141. Duncker & Humblot, Berlin (2006)
- Altenburger, O.A., Göttsche, M., Kuntner, M.: Unbundling of insurance contracts according to IFRSs—applicability and limitations. *Z. Gesamte Versicher. Wiss.* **97**(2), 162–176 (2008)
- Barham, V., Poddar, S.N., Whalley, J.: The Tax Treatment of Insurance under a Consumption Type, Destination Basis VAT. *Natl. Tax J.* **40**(2), 171–182 (1987)
- Behrens, S.: Vorschläge der EU-Kommission zur Umsatzsteuer bei Versicherungs- und Finanzdienstleistungen. *AG* **53**(12), 446–451 (2008)
- Boadway, R., Keen, M.: Theoretical Perspectives on the Taxation of Capital Income and Financial Services. In: Honohan, P. (ed.) *Taxation of Financial Intermediation, Theory and Practice for Emerging Economies*, pp. 31–80. The World Bank/Oxford University Press, Washington, DC/New York (2003)
- Chini, L., Url, T.: Die Besteuerung von Versicherungsleistungen und Versicherungsunternehmen, Ein Reformvorschlag. Österreichisches Institut für Wirtschaftsforschung, Vienna (2002)
- Crossen, S.: A proposal to apply the Kiwi-VAT to insurance services in the European Union. *Int. Tax Public Finance* **20**(5), 867–883 (2013)
- Commission of the European Communities: Proposal for a Council Directive amending Directive 2006/112/EC on the common system of value added tax, as regards the treatment of insurance and financial services, COM(2007) 747 final. Brussels (2007)
- Commission Regulation (EC) No 1617/1999 of 23 July 1999 laying down detailed rules for the implementation of Council Regulation (EC) No 2494/95—as regards minimum standards for the treatment of insurance in the Harmonized Index of Consumer Prices and modifying Commission Regulation (EC) No 2214/96. *OJ L* 192, July 24, 1999, 9–10
- Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax. *OJ L* 347, December 11, 2006, 1–118
- Edgar, T.: The Search for Alternatives to the Exempt Treatment of Financial Services under a Value Added Tax. In: Krever, R., White, D. (eds.) *GST in Retrospect and Prospect*, pp. 131–161. Thomson Brookers, Wellington (2007)
- Europäische Kommission, Generaldirektion für Steuern und Zollunion, Indirekte Steuern und Steuerverwaltung, MwSt und sonstige Umsatzsteuern: Konsultationspapier zur Modernisierung der Mehrwertsteuerpflichten für Finanzdienstleistungen und Versicherungsleistungen. Europäische Kommission, Brussels (2006)
- EY: Global Insurance Premium Tax (IPT) Newsletter No. 2/2015. Place of publication not indicated (London)
- de la Feria, R.: EU VAT Principles as Interpretative Aids to EU VAT Rules: The Inherent Paradox. In: Lang, M., et al. (eds.) *CJEU—Recent Developments in Value Added Tax 2015*, pp. 3–19. Linde, Vienna (2016)
- de la Feria, R., Walpole, M.: Options for Taxing Financial Supplies in Value Added Tax: EU VAT and Australian GST Models Compared. *Int. Comp. Law Q.* **58**(4), 897–932 (2009)
- Frey, P.: *Der Versicherungsvertrag im Umsatzsteuer- und Versicherungssteuerrecht*. Orac, Vienna (2000)
- Friedrich-Vache, H.: Verbrauchsteuerkonforme Umsatzbesteuerung von Finanzdienstleistungen, Plädoyer für die Abschaffung unechter Steuerbefreiungen. Dr. Otto Schmidt, Cologne (2005)

- Friedrich-Vache, H.: Plädoyer für die Abschaffung unechter Befreiungen im Finanzdienstleistungsbe-  
reich – Mit Ausnahme der Verwahrung im Einlagengeschäft –. *Umsatzsteuer-Rundsch.* **55**(4),  
207–217 (2006)
- Göttsche, M.: Die Einbeziehung von Versicherungsumsätzen in das Mehrwertsteuersystem der Europä-  
ischen Gemeinschaft. Habilitation Thesis (unpublished). University of Regensburg. Year of submis-  
sion not indicated (2007)
- Holzheu, T.: Die Einbeziehung der Schaden-/Unfallversicherung in das Umsatzsteuersystem. VVW,  
Karlsruhe (2000)
- Kapeller, P.: Proposal for an Amendment of the VAT Directive as Regards the Treatment of Insurance and  
Financial Services. *Steuer Wirtsch. Int.* **18**(1), 27–28 (2008)
- KPMG: Consumption Taxes on Financial Services, Value Added Tax on Financial Services in the Euro-  
pean Community. Report for the International Fiscal Association. Place and year of publication not  
indicated (2002)
- Krever, R., Teoh, J.: GST and Insurance: Australia. In: van Brederode, R.F., Krever, R. (eds.) *VAT and  
Financial Services, Comparative Law and Economic Perspectives*, pp. 319–335. Springer, Singapore  
(2017)
- Kunz, M.: Die Diskussion ist eröffnet, Der EU-Modernisierungsvorschlag zur umsatzsteuerlichen Behand-  
lung der Versicherungs- und Finanzdienstleistungen. *Versicher. Wirtsch.* **63**(7), 560–563 (2008)
- López-Laborda, J., Peña, G.: A New Method for Applying VAT to Financial Services. *Natl. Tax J.* **71**(1),  
155–181 (2018)
- Mann, G.: Australia, Goods and Services Tax. International Bureau of Fiscal Documentation (2018)
- Medert, H.K.: Massive steuerliche Diskriminierung der Dienstleistung „Versicherungsschutz“ durch das  
Haushaltsbegleitgesetz 2006. *Dt. Steuerr.* **44**(22), 937–940 (2006)
- Moodley, P.: VAT Treatment of Financial Services: A Comparative Analysis between Methodologies Ap-  
plied in South Africa and Other Tax Jurisdictions. Master Thesis. University of Witwatersrand, Jo-  
hannesburg (2016)
- Papis-Almansa, M.: Insurance in European VAT, Current and Preferred Treatment in the Light of the New  
Zealand and Australian GST Systems. Kluwer Law International, Alphen aan den Rijn (2017)
- Poddar, S.: VAT on Financial Services—Searching for a Workable Compromise. In: Krever, R., White, D.  
(eds.) *GST in Retrospect and Prospect*, pp. 179–204. Thomson Brookers, Wellington (2007)
- Poddar, S., English, M.: Taxation of Financial Services under a Value-Added Tax: Applying the Cash-Flow  
Approach. *Natl. Tax J.* **50**(1), 89–111 (1997)
- Ruppe, H.G., Achatz, M.: *Umsatzsteuergesetz, Kommentar*, 5<sup>th</sup> ed. Facultas, Vienna (2018)
- Sagh, B.: Financial and insurance services in VAT/GST and direct taxation. In: Pfeiffer, S., Ursprung-  
Steindl, M. (eds.) *Global Trends in VAT/GST and Direct Taxes*, pp. 409–430. Linde, Vienna (2015)
- van Schalkwyk, S., Prebble, J.: Imposing Value Added Tax on Interest-Bearing Instruments and Life In-  
surance. *Asia-Pac. Tax Bull.* **10**(12), 451–468 (2004)
- Schenk, A., Zee, H.H.: Financial Services and the Value-Added Tax. In: Zee, H.H. (ed.) *Taxing the Finan-  
cial Sector, Concepts, Issues, and Practices*, pp. 60–74. International Monetary Fund, Washington,  
DC (2004)
- Schlüter, W.: Ausgewählte umsatzsteuerliche Entwicklungen bei Finanzdienstleistungsunternehmen, In-  
ternationale Wettbewerbspolitik vs. Systemgerechtigkeit. In: Baumhoff, H., Dücker, R., Köhler, S.  
(eds.) *Besteuerung, Rechnungslegung und Prüfung der Unternehmen, Festschrift für Professor Dr.  
Norbert Krawitz*, pp. 387–408. Gabler, Wiesbaden (2010)
- Schmidt, P.: Konsumbesteuerung durch Mehrwertsteuer, Zur konsumorientierten Ausgestaltung mehr-  
wertsteuerlicher Erhebungstechnik. Erich Schmidt, Bielefeld (1999)
- Walpole, M.: The Henry Review’s Tax on Financial Services: An Alternative Approach for Australia. *Int.  
VAT Monit.* **24**(1), 17–21 (2013)