Task: Write an essay on corporate taxation

Topic: Comparative Corporate Taxation

Type: Comparative Essay

Length: 22 pages

Formatting: MLA

Requirements:

Prepare an essay on corporate taxation in Australia, Germany, the United States and the United Kingdom

Name:

Tutor:

Course:

Date:

Comparative Corporate Taxation

Introduction

Taxation is the major method by which the government gets revenue to provide the public services and govern the country in an effective manner. It also allows the government to run welfare programs for the persons that are under privileged or jobless. The tax is gotten from the income of the citizens, corporations and from other avenues such as the custom tariffs. The effectiveness of the taxation system of a country has a direct influence on the performance of the economy of such a country in general.[1] The proceeds from taxation are the ones that contribute the largest proportion of the annual budgets of most of the capitalist nations. The taxation authorities happen to have targets that are best when exceeded, but point to a poor performing economy if they are not attained.

There are two major types of taxation: income tax and tax on commodity. Corporate taxation falls under the income tax segment, and the corporation is taxed as an earning entity just like a citizen. The only difference is that the rates of taxation are applied on the corporations are not the same as those applied on individuals.[2] Corporate taxation varies in different countries, though there are various aspects that remain similar. Four countries are going to be compared in term of the way that corporate taxation is applied on them and the effectiveness or weaknesses of each outlined. The five countries whose corporate taxation is to be compared include Australia, Germany, the UK and US. The economies of these

MostAwfulEssays 9/29/14 11:37 AM
Comment [1]: The Secret World Government?

MostAwfulEssays 9/29/14 11:37 AM
Comment [2]: And again: what country?

MostAwfulEssays 9/29/14 11:38 AM
Comment [3]: You managed to make several grammatic and stylistic mistakes in this tiny piece of text.

MostAwfulEssays 9/29/14 11:38 AM
Comment [4]: Avenues? Boulevards? Crossings? Drives? Prospects? Streets?

MostAwfulEssays 9/29/14 11:39 AM
Comment [5]: What country?! "Such a..." implies that you describe it's qualities! If you wrote that its brown, tiny, and angular, then you could use this "such a..."

MostAwfulEssays 9/29/14 11:41 AM
Comment [6]: This is totally meaningless.

MostAwfulEssays 9/29/14 11:41 AM
Comment [7]: My cat can write better.

MostAwfulEssays 9/29/14 11:41 AM
Comment [8]: "Earning being" would sound even more awkward. Let's compete in awkwardness!

MostAwfulEssays 10/6/14 5:03 PM
Comment [9]: Warning: wrong preposition System message complete. Beep.

MostAwfulEssays 9/29/14 11:43 AM
Comment [10]: But you've just written it's going to be four of them...

MostAwfulEssays 9/29/14 11:43 AM
Comment [11]: One of these countries must count for two, I guess.

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[1] Deborah M Weiss and Jennifer Arlen, 'A Political Theory of Corporate Taxation', *Yale Law Journal* 105 (1995): 325.

[2] Michael P Devereux and Rachel Griffith, 'The Impact of Corporate Taxation on the Location of Capital: A Review', Swedish Economic Policy Review 9, iss 1 (2002): 79--106.

countries are among the best globally and this is in a way owed to their taxation systems that emphasize on efficiency and fairness. Of interest is to know the features of their corporate taxation.

MostAwfulEssays 9/29/14 11:44 AM
Comment [12]: What peculiar syntax...

Identification and allocation of distributions

The members of a corporation are usually referred to as the shareholders and to be legally recognized as members of that corporation, their names have to be recorded in the register of the shareholders. In theory, the shareholders are the owners of the corporation, and they wield authority in the form of voting rights depending on the proportion of shares of the firm that they hold. The higher the proportion of shares they have, the more voting rights and more power they have in determining the decisions taken by the management of the corporation. These members are entitled to dividends from the profits made by the firm in any financial year.[3] There are however, other persons not owning shares that may be recipients of dividends according to the corporation rules of the organization. It may therefore be assumed that the members of a corporation are those ones whose names are included in the shareholders register while those not in it, though involved in the activities of the firm, may not be considered as members of the corporation.

MostAwfulEssays 9/29/14 11:47 AM
Comment [13]: This is suspicious... So far, you haven't made any significant flaws.

MostAwfulEssays 9/29/14 11:47 AM
Comment [14]: I guess you already stated it in the beginning of the paragraph. Anyways, don't write about obvious things.

Substance over form approach refers to the presentation of financial reports in accordance with the economic reality on the ground or in the real intentions of the corporation. It helps a lot in taxation when hybrid financial instruments come into play. Most firms are aware that equity shares are taxable, while the debt shares are exempted from tax. In a bid to evade taxation, they may come up with financial instruments containing the characteristics of debt and those of equity as well. These instruments are sometimes called hybrid instruments, and the taxation law is not yet clear on whether they should be taxed or

MostAwfulEssays 10/6/14 5:31 PM
Comment [15]: Are you writing an essay for your elementary class?

[3] Harris, P. (2013), Corporate tax law: structure, policy and practice (Cambridge University Press)http://ebooks.cambridge.org.ezproxy2.library.usyd.edu.au/ebook.jsf?bid=CBO9781139519922

otherwise.[4] The substance over form approach may assist the tax laws in determining whether to consider a hybrid instrument as a debt or as equity. In case it is taken to be equity, the taxation laws apply accordingly. In the event they turn out to have more debt like characteristics, they are treated as such. An example of the application of substance over form approach is the analysis of the debt to equity ratio. If this ratio is found to be abnormally large, then the excess part of the debt is analyzed to determine whether it may be having the qualities of equity.[5] If this is found to be the case, then the conventional taxation law will apply to that instrument. These measures are commonly taken in the United States and Germany.

The formal approach to taxation recognizes a corporation as subject to tax. The shareholder is also subject to tax. The shareholder is a person taken to be a member of a corporation, and he/she may have ownership rights or otherwise. The problem with this definition is that other persons might that have right to dividends in the corporation, but may not necessarily qualify to be treated as members. The definition of what shares are is not clearly defined in the taxation law. The different entities in the corporation may be provided in the corporation law, but this is not the same when it comes to the taxation law. The profits of a corporation as understood by the corporation may be understood and interpreted differently in the tax laws.[6]The inconsistencies in the laws and interpretation of terms in the taxation and the corporate world are the ones that give leeway for tax evasion by the rogue corporations. The inconsistencies however, are usually covered by the additional regulations form the treasury or central banks that try to minimize the possibility of avoidance of tax by corporations. These regulations are still not fully effective.

MostAwfulEssays 9/29/14 11:50 AM
Comment [16]: What? I mean. What is it exactly?

MostAwfulEssays 9/29/14 11:50 AM
Comment [17]: How?

MostAwfulEssays 9/29/14 11:51 AM
Comment [18]: Why? (Man, if I also managed to ask "who" and "where," I'll score 1,000,000!)

MostAwfulEssays 9/29/14 11:52 AM
Comment [19]: Writing "If it is not the case" did not sound cool, or what?

MostAwfulEssays 10/6/14 5:34 PM
Comment [20]: Confusing.

MostAwfulEssays 9/29/14 11:52 AM
Comment [21]: ?

MostAwfulEssays 9/29/14 11:54 AM
Comment [22]: What does it mean?

MostAwfulEssays 10/6/14 5:35 PM
Comment [23]: Definitely not needed.

MostAwfulEssays 10/6/14 5:35 PM
Comment [24]: I think you meant something else.... anyways, I am too bored to read the rest of the essay.

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[4] R. L Deutsch, *Australian Tax Handbook*, 1st ed. (Pyrmont, NSW: Thomson, 2006).

[5] Harris, P. (2013), Corporate tax law: structure, policy and practice (Cambridge University Press)http://ebooks.cambridge.org.ezproxy2.library.usyd.edu.au/ebook.jsf?bid=CBO9781139519922

[6] Ibid.

The distributable income of the corporation to the shareholders is also a debatable subject. In some countries such as Australia, the distributable income is the profits made by the corporation, which ought to be distributed to the shareholders in form of dividends. The US defines the distributable income as the earnings and profits of the corporation to be paid in dividends to the shareholders. Another problem arises in the calculation of the profits by the corporation and in terms of the taxation law. The taxable profit of the corporation as recognized by the corporate law may not be equal to the profit that is legitimate according to the tax law. There also exist some other parties, who though not members of the corporation, have a right to the dividends given by the firm. The difference between 'profits' and 'earnings plus profits' is still not defined clearly. This makes it challenging to apply the law to the letter in determining to whom dividends are due, and exactly how the taxation rates should be applied. This might in a way require the application of taxation to be dynamic and additional regulations put in place to ensure that the loopholes left evident in the existing laws are sealed and lead to effective taxation process.

Corporate taxation Australia

Identification and allocation

According to the Australian tax law, divided is any form of distribution made to the shareholders of a company in form of money or other property. In the definition of dividend, the amounts credited a disclaimer to the shareholder or shareholders on the cancellations or redemption of a preference share as not a dividend. This is usually debited against the amount outstanding on the credit capital share of the company. A payment made on the reversionary bonus of a life insurance policy is also not considered as a dividend.[7]The shareholders of corporation consist of the members that are registered in the in the firm. Other persons having interests in the corporation apart from the shareholders are also entitled to dividends that are

[7] R. L Deutsch, *Australian Tax Handbook, 1st* ed. (Pyrmont, NSW: Thomson, 2006).

in tandem with their interest in the company.[8] These persons are referred to as non-share equity holders and constitute the non-share distribution of the corporation. They are given dividends in the form of money, property, or are credited by the firm as holders of a certain non-share interest in the company. Thus, the dividends paid to these persons or entities are called non-share dividends. This dividend defection is similar to that of Germany, UK and US, making it have almost a universal meaning.

Membership to a corporation

According to ITAA 1997, there are different forms of equity interests in a corporation. The first one is the membership, which equates to a stockholder. This is the most common in the corporations. The second form of interest is one whose presence in a great way determines the performance of the firm. This type of equity interest is often associated with the good performance of the corporation. The third form of interest is equity is the one that is decided over in the discretion of the company.[9] The last one is kind of interest that has the potential of being transformed into equity interest or has rights to the same, at the discretion of the corporation. These types of equity are specific to Australia. In most other countries, such as the US, it is rare to find more than one type of shares in a corporation.

For a corporation, the share equity is the same as the investment of the shareholders into the company and is not repayable. Shares are treated the same way in the other countries. The shareholders benefit thorough the dividends given after every financial year. The debt equity is different from the share equity. The Australian tax law differentiates debt equity as having the following characteristics: it is a financial benefit that is received by the company from an external entity and is under obligation afterwards to refund the same benefit to that entity. The period between the receipt and repayment of the financial obligation is agreed on beforehand. The obligation that the corporation is left with is usually more than the amount

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[8] ITAA 1997, 'Income Tax Assessment Act 1997', last modified 2014, accessed May 28, 2014, http://www.comlaw.gov.au/Details/C2014C00160.

[9] ITAA 1936, ‘Income Tax Assessment Act, 1936’

received. The value of this benefit is calculated in nominal terms if the performance period after its issue is not more than ten years. It is calculated in present value terms if the performance period after the issuance is more than ten years. This is unlike Germany, where there is no explicit definition of debt equity.

Tax base

The assessable income that is taxable in Australia includes the capital gain for the income year. When working out the capital gains of an individual, concessional rules may apply if there is CGT asset from which a discount capital gain has been realized. The CGT asset must have been acquired at least 12 months before the CGT event that caused the capital gain occurs.In this case the concession directs that only 50% of the gain from the asset is included in the net capital gain of the individual. In the instance of foreigners, they are subject to CGT on taxable Australian property. This includes land and assets whose permanent establishment in Australia assists in the carrying out business for the individual.

The income tax is levied on the income gained from a business activity and in this case, the income is used to refer the profits gained from the business activity in that financial year. Australia's system does not describe in detail the meaning of 'income' as Germany, UK and US. If an individual disposes of an item of the stock outside the ordinary course of a business, then their assessable income includes the value of that item if it was a part of the business carried out and was itself an asset. In the event that an individual disposes a GCT asset or all the assets to a company, they may obtain a rollover. The considerations they may receive in this case are shares in the company. The full ownership of all the shares of the company must belong to such individual immediately after the disposal event. Any capital gain or loss because of the event is disregarded if a person chooses a rollover. In order to get the cost base of each share, the number of shares divides the cost base of the asset at the time of disposal.

A balancing adjustment is provided for in the law regarding the holding of depreciating assets. An amount might be included in the assessment if the termination value is greater than the adjustable value now. This assists in ensuring that the termination value is of the greater amount received or the market value of the asset. The acquiring company takes over the depreciation of that asset from person that has transferred it, that is, the transferor. This emphasis on the taxation of assets transferred or disposed of is not found in the taxation rules of other countries.

Resident and non-resident corporations

A corporation is considered a resident of Australia if any of the following conditions apply: the company is incorporated in Australia, not incorporated in Australia but has operations in Australia and its central management and control in Australia and shareholders who are residents of Australia control the voting rights. In short, the company is considered a resident of the country where it has its central, management and control. The resident corporations are subject to unlimited tax liability by the virtue of their business management or seat of operations being in the country. This definition of resident and nonresident companies is similar to that of Germany and UK. The US, however, appears to be more liberal in matters of the residency of a company. Concerning their foreign sources of income, Australian residential companies are entitled to tax exemptions or a direct foreign tax credit. If a corporation makes a post tax distribution to an individual or another entity, this amount is not included when assessing the receiver's taxable income. This is done in order to prevent double taxation. However, the receiving entity is not entitled to a tax offset, unless it satisfies the residency status. This applies to income that has been derived from a nonresident and dividends paid out by a company that is a resident in Australia. For the instance where the income consists of franked part of the dividend, this law does not apply.

A person whose income is inclusive of dividends is liable to taxation at a rate to be determined by the Parliament. According to the Income Tax Act of 1974, the tax rate imposed on income from dividends is 30%. If the income happens to have withholding tax that is payable, it is not assessable for taxation. The unfranked part of the franked distribution thata resident company declares to be conduit foreign income is not assessable. In this case, the liability to withholding tax phrase does not apply. Foreign branches' income non portfolio and capital gains are not taxable to the distributing company.The assessable income of a shareholder of a company includes the income received from the dividends from the shares held and the dividends received as a result of the having non-share interests.

Tax Adjustments

A number of adjustments are made when calculating the amount of tax levied on the corporations.One of the adjustments is based on the dividend deduction system that occurs when the firm has to deduct some of its returns to pay off interest on a debt. The deduction is made from the dividends.There is the split system where a tax rate of 30% is levied on the retained profits while 10% tax rate is applied on the distributed profits. In the Advance Corporate Tax system, the corporate profits are taxed at a rate of 30% while the post-tax profits are subjected to ACT of 25%. Finally, there is the Dividend exclusion system where a rate of 30% is imposed on the corporate tax while the rest is distributed without further taxation. These offers of taxation adjustments are only found in Australia. This is possible if the distribution falls within an exempt class and no deduction is to be allowed to a non-resident in respect to distribution. The tax adjustments in the other countries are not as elaborate as this.

A company in Australia may frank the distribution if the franking entity satisfies the residency requirement at the time of the distribution, the distribution is a frankable distribution and if the entity allocates a franking credit to the distribution. Some distributions

are unfrankable. They include a distribution in respect to non-equity share, an income amount taken as a part of unfrankable dividend, and streaming dividends plus capital benefits. The franking credit is the one that is usually stated in the distribution statement unless it surpasses the maximum franking credit allowed for in the law. The franking percentage made by a company at the first frankable distribution is considered as the benchmark franking percentage within that period. If the benchmark franking percentage is breached, then an over franking tax is imposed on the firm for the distribution that exceeded the benchmark franking percentage. The case that there is under franking, a franking debit arises which makes the franking credit assessable on the income of the recipient of the distribution. The recipient is further entitled to a tax offset in that financial year in which the franked distribution is made. If a tax offset is not usable to the individual, then that amount is refundable. In the case of a company that cannot use a tax offset, it can turn it into a loss in the future financial year.

Each company that pays tax has the requirement of a franking account in order to record all the distributions. This makes it easier to notice when a debit arises in the franking account so that the company may get a tax offset or reimbursed.To prevent indefinite expectation of franking credits by companies, the law requires them to reconcile their franking accounts where they tax may be levied in case a deficit is realized. If this is the case, then the franking account deficit is paid up by the company at the end of the income year. The franking of distributions seems to be an Australian phenomenon, not described in the other countries.

Corporate taxation in Germany

Corporation Definition

The corporate taxation laws in Germany are to some extent similar to those in Australia, though there are some stark differences still. In Germany, the corporation tax

covers many entities other than incorporated companies. Some of the entities that fall under corporate tax law are incorporated companies; limited partnerships with shares; limited liability companies; cooperatives; mutual insurance and pension fund organizations; other private law legal entities; organizations, institutions, foundations and other special purpose funds without legal personality under private law; and commercial businesses of public sector legal entities. The definition of a corporation in Germany encompasses many entities, similar to the United States. The basis for United States covering many entities is the nonspecific manner in which it describes a corporation. UK law uses the Terms Company and corporation interchangeably.

US: IRC s. 7701(a) (3) Corporation. - The term "corporation" includes associations, joint-stock companies, and insurance companies

UK: CTA 2010 s. 1121 [ITA s. 992] “company” means anybody corporate or unincorporated association, but does not include a partnership, a local authority or a local authority association...

The corporate tax is assessed based on the taxable income.[10] The taxable income that is subject to tax levy is described in detail as consisting of income from business activity, which is further defined as the profits gained from the business activity. The profits are construed to be the difference in the operating assets of firm between the closing time of the current accounting period and the closing of the previous accounting period. Traders are required to keep books and prepare financial statements regularly. Their operating assets are regularly assessed in accordance with the accepted principles of accounting and adjustments made as provided by the taxation law in Germany. This is similar to Australia.

Losses not included in the determination of the income of the corporation are deducted up to a total of EUR 511,500 from the total income of the preceding assessment

[10] Income Tax Law (Einkommensteuergesetz, "EStG")Corporate

period and this is referred to as loss carry back. The losses not offset as mentioned are offset in the assessment periods that follow up to an unlimited amount of EUR 1 million. Beyond this, the loss is carried forward.[11]

Taxation Adjustment

The corporation tax is 15% of the taxable income. This taxable income constitutes the company's profits for any year as may be stipulated by the German Taxation Act. Income from investment that is taxable in Germany includes dividends, profits and other income from shares, profit participation rights that are linked right in the profit distribution and liquidation proceeds from limited liability companies. The tax rate on corporation income in Germany is significantly lower than compared to the other countries. Shares from limited liability companies and proceeds from concealed profits are included in the investment income. Profits from sales are included in the income from investment. Dividend coupons and other claims by the holder of ordinary rights if the shares are not sold at the same timeare also included. There is a certain deviation from this rule in that if another person other than the owner exercises control over the economic goods in such a way that the owner may be excluded from the usefulness of the goods. In such a case, the person in control gets such goods added to him. Determination of the income is done whether distribution takes place or not. Any type of participation rights and the hidden profits distribution has no reduction effect on the income. The deduction of interest on all debt is done by reducing the taxable earning by 30% before the taxation barriers are applied.[12] Any excess limitation can be carried forward for 5 years.

A clause affirms that concealed profits are to be included in the assessment of investment income. The decisions of the Federal Tax Court provide that a constructive dividend is any decrease in capital that may be caused by any of the following factors:

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[11] Income Tax Law (Einkommensteuergesetz, "EStG")Corporate

[12] Income Tax Law (Körperschaftsteuergesetz, "KStG")

caused by the shareholder relationship, has effects on the income of the corporation, not based on the shareholders' resolution to declare dividends and benefits in monetary form to the shareholder or a person related to the shareholder not required. Further, investment income is derived from the profit shares and tax on it is made as a prepayment to the on the investment income. The investment tax levied in such case is a t rate of 25% of the investment income.[13]A total of EUR 801 is excluded in the determination of the income from the investment, while the actual costs are excluded from the deduction. The divided tax credit is calculated as thus in Germany: a corporate tax is levied at the rate of 30% of the profits, and then the tax credit is calculated as 20% of the remaining profit dividends. This amount is further added to the remaining distributed income. This in the process reduces the whole tax rate to 16%. This tax credit is dependent on the amount of dividends distributed to the shareholders, but limited to the corporate tax paid with respect to the profits distributed.

Contributions not paid to the registered capital by an incorporated company that has unlimited liability should be recorded in a separate account that is called the fiscal contributions account as the fiscal year ends. The balance of the contributions in the fiscal account at the end of the previous fiscal year is carried forward, with the additions and disposal during a fiscal year shown clearly. Payments made by the incorporated company can only reduce the contributions fiscal account if the sum of the payments made in that fiscal year exceeds the profits of appropriation to dividends established at the end of the preceding fiscal year.

This is done not considering the repayment of registered capital. In this instance, the appropriation to dividends refers to the equity capital shown on the fiscal balance sheet minus the subscribed capitaland the balance of the fiscal contribution account.

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[13] Reorganization Tax Act (Umwandlungssteuergesetz, "UmwStG")

Resident and Non-Resident Corporations

Firms that have their management or seat of operations in Germany are considered as resident corporations. They are therefore, liable to unlimited taxation as per the tax laws of Germany. In the case of foreign income for corporations that are taxpayers in Germany, the established amount of tax paid to the foreign country is deducted when they are taxed in Germany. Nonresident shareholders in Germany are those persons not having a residence or customary domicile within the country. Such persons are subject to limited taxation. Corporates not having customary domicile in Germany or their seat of management therein are only liable to taxation on their domestic income. The domestic income is further defined as the income derived from a commercial undertaking. In this undertaking, a permanent establishment is maintained in Germany and well as having permanent appointments in place. The other source of domestic income is the earnings gotten from capital assets.[14] This is so especially if the debtor of the corporation has permanent residence in Germany. Taxpayers with limited tax liability have the reduced taxes on their investment income settled by tax reduction. This does not apply to the operating income of businesses within the German territory. The corporations that have the right to withholding tax are expected to do so if the receiver of the income is subject to limited tax liability and the income is not creditable to a domestic business.

If taxpayers are subject to unlimited tax obligation and are assessed by a foreign State by their income coming from that State, then the tax charged in the foreign State is credited on the person's tax liability in Germany, which payable proportionally on the income of such a taxpayer is coming from the foreign country. The income tax in Germany is taxed on income from business activity, which in essence means the profits made by the business venture. The profit is the difference in the operating assets at the end of the current financial

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[14] Richard Sackin, *Germany Tax Guide*, ebook, 1st ed. (PKF International Tax Committee, 2013), accessed May 28, 2014, http://www.pkf.com/media/1954392/germany%20pkf%20tax%20guide%202013.pdf.

year and that one recorded at the end of the previous year. These operating assets are increased or decreased by the number of receipts and the capital contributions made by the company respectively. The rules on the treatment of shares for assets are such that the company distributing its assets to another must take the shares issued at their market value. On request, the company may take those shares on their book value or higher value, but it is highly recommended that they be taken at their market value. The value at which the receiving company takes up the assets distributed is considered as the sale proceeds for the contributors, and as the cost of attaining the shares given as well. Should the contributor sell the company at a value less than the market value and sell the shares obtained within 7 years, then the gain rolled over is taxed and they do not get the 40% income or 25% tax withholding system. The gain is taxed in this way reducing it by a seventh every year counting from the time the shares are held.

The sale of shares in incorporated company is deemed a part of the income from business enterprise if the seller has at least 1% direct or indirect participation in the company's capital in the previous five years. The incomes exempt at 40% tax reprieve include the increases in net worth or income from the disposal or withdrawal of shares in a corporation. Therefore, in determining the income, only 60 percent of operating assets, operating expenses and disposal expenses or income related expenses are considered. The profits from the sales of shares are included in the investment income while the profits from the sale of equity are ignored.[15]Domestic income for purposes of limited taxation is income from a commercial undertaking. This involves one for which a permanent establishment is maintained or a permanent representative has been appointed in the national territory. If it concerns shares, the company has to have a registered office or administrative office in the national territory.

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[15] James R Hines Jr, 'Corporate Taxation and International Competition' (2005).

With reference to returns on capital, investment income is assessed on the payments make on the dissolution of company that was subject to unlimited tax liability. This is with the exception of repayments that include nominal capital. This approach also applies for payments that occur by virtue of capital reduction and are treated as profit distributions. Capitalized profits are recorded separately from the nominal capital for taxation purposes and are at first treated in the same manner as other distributions.

When substituting shares, a share acquired on the exercise of an option is required to be capitalized together with the option premium. If the option loses value after the purchase of the contract, then the lower book value is entered into the acquisition cost of the underlying asset and the result is no profits are realized. Compound financial instruments such as convertible notes are not valued as one entity but are stripped down to their economic contents due to their economic nature. The German tax laws only provide for the consideration of the compound financial instruments while they are not mentioned in corporate tax laws of the other countries. Companies in Germany can make a tax-free distribution of bonuses provided for in the Stock Dividend Law of 10th October 1967. The cost base of the old shares and the new shares is apportioned between them according to their par value.During mergers, the shares of the acquired company have to be valued at the market value by the acquiring company. It is possible for them to be valued at a higher value or the book value on request, but this only allowed only if the acquiring company gets more voting rights due to the number of shares allocated to it. The value at which the acquiring company takes the share is considered as the proceeds from the sale of the shares and still as a cost of acquiring the shares. If the contribution of shares is done below the market price, then the gains are recaptured on the deferred gains of share exchange. The gain is taxed by a seventh every year from the time of the contribution. The process of a demerger requires that the assets transferred be taken at market value. Any deviation from this is done under the

conditions that the hidden reserves inherent to the assets transferred will be taxed. Subsequently, consideration is not given or takes the form of shareholders' rights.The acquiring company during the demerger has to take up the assets in accordance with section 11, that is, at the value used in the final tax balance sheet. The shares of the transferring company are treated as sold, and the acquiring company views them as a purchase.

Corporate taxation in the UK

According to the laws of the UK, a company is defined as any corporate or unincorporated association. This definition does not extend to partnerships, local authority or local authority associations. An unincorporated association requires two or more persons to have binding undertakings on one or more non business purposes, have a specialization of duties and obligations, have rules identifying the authority of the group and their terms of interaction and be a group that can be joined and left at will. A corporation is said to be a close company if it is under the control of 5 or fewer persons who may be the directors.[16] The company having may not be considered a close company if it is a non-resident company and if the 35% of the voting rights are allocated to the public. This is also the case if non-close companies control it.

Tax base

Corporate tax is charged on the profits of the companies in the UK. The profits as used here describe the income and chargeable gains of the corporations. The charging of corporate tax is done in accordance with trading income, property income, profits arising from loan relationship, company distributions and miscellaneous income. The general tax base of corporation is also defined as targeting the profits of trade of the corporation. The determination of the profits is done using general accepted accounting principles with any

[16] Ting, Antony. The Taxation of Corporate Groups under Consolidation. 1st ed. Cambridge [UK]: Cambridge University Press, 2013.

adjustments done in accordance with the law for the calculation of the profits that will be targeted during taxation.

A company may make a claim for group relief if someconditions are satisfied. Such conditions include the surrendering company consenting to the claim, an overlapping between the claim period and the surrender period and that during this period the group condition or the consortium condition is met.[17] Two companies are members of the same group if one of them is a 75% subsidiary of the other or if the two of them are 75% subsidiaries of a third company. A group relief is made by making deductions on the company's total profits for the claim period. A company is owned by consortium if it is not75% subsidiary of another and has 75% of its ordinary share capital owned by other companies, each having at least 5% of the ordinary share capital.

Tax treatment

Corporation's tax is charged on the profits of the company for any financial year. The tax is charged at small profits rate if the company is a resident of the UK, is not a closed investment holding company for the period and the augmented profits for that period do not go below the lower limit. The corporation tax on the profits may have varying rates dependent on the financial year. For example, the tax rate for the 2014 financial year is 21% on the profits while it was 20% on the small profits in 2013. This is unlike in the other countries where the where the rates remain constant. The tax rates imposed on the profits of corporations are dependent on the brackets of the earnings made by the corporation. The rates range from 15% for lower profits to up to 38% for higher profits. In addition to these rates, a constant rate of 35% is charged on the taxable income of qualified personal services corporation.

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[17] Reginald Mombrun and Gail Levin Richmond, a Complete Introduction to Corporate Taxation, 1st ed. (Durham, N.C.: Carolina Academic Press, 2006).

Identification and allocation

No deduction is allowed for dividends or any other distribution during the calculation of the company's profits in the UK. Distribution is used to refer to any interest or other distributions in the assets of the company in respect to non-commercial securities of the company.This excludes any distribution that represents the principal secured by the securities and distributions representing a reasonable commercial return from the use of the principal. Income tax is charged on the dividends and other distributions of a UK resident company. The charge to corporate tax includes and applies any divided or distributionof the company provided that the distribution is not exempt.

The corporate profit is charged a tax rate of 30% and then this is followed by a 10% shareholder tax rate. The dividend ordinary rate is 10%; the dividend upper rate is 32.5% while the dividend additional rate is 37.5%.Income tax is charged at the dividend ordinary rateon an individual's income.Dividend tax credits are given to residents and nonresidents in the UK receiving distribution from a UK resident company. Such persons are eligible for a tax credit of one ninth of the value or amount of the distribution.

International Taxation of dividends

A company is considered a resident in the UK if it has its management and control there. a company incorporated in the UK is also considered a resident company.According to the tax law instituted in 2009, there is a possibility for companies to opt out of the tax regime on profits generated from outside. These profits are exempt and the losses are excluded to the extent that they arise from foreign establishments.[18]These profits are calculated using tax treaties or under the OECD Model.[19] The credits for tax on foreign income is calculated and paid under the law of the territory, arecalculated by reference to any income arising or

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[18] James R Hines Jr, 'Corporate Taxation And International Competition' (2005).

[19] Ana Agundez-Garcia, 'the Delineation and Apportionment of a Eu Consolidated Tax Base for Multi-Jurisdictional Corporate Income Taxation: A Review of Issues and Options' (2006).

chargeable gains that are made in the territory and corresponding to the UK tax system.[20]This credit gain is allowed against any income tax or corporate tax that is calculated with reference to that income or gain. In order to avoid double taxation on non-resident shareholders, they are entitled to tax credit on the distributions made to them by UK resident companies. If such a person is not entitled to a tax credit, then they are treated as having paid income tax at the ordinary dividend rate, and the tax paid is not repayable. Credit for overseas tax is allowed if the recipient is a resident company in the UK and if the recipient owns at least 10% of the voting rights in the firm that makes the distribution. Residents in the UK receiving distribution from non-UK companies are entitled to tax credit that equivalent to a ninth of the grossed distributions.

Corporate taxation in the US

According to IRC, the term corporation refers to associations, joint stock companies and insurance companies. An organization is more likely to be treated as an association if its characteristics are more of the corporations as opposed to a partnership. A business entity may elect whether to be treated as a corporation or not a classification that they are stuck with for five years. The entities described above as corporations however, have no such elective right. A small business corporation refers to a company that has at most 100 shareholders, has all the shareholders being individuals, has all the shareholders as residents of US and has only one class of stock.[21] A personal holding company is any corporation that has at least 60% of the adjusted gross income as personal holding company income and at any time during the last half of financial year has more 50% of its outstanding stock value owned directly or indirectly by not more than 5 individuals. This is comparable to the close companies in the UK when the number of the dominant members is considered.

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[20] Peter Harris, *Corporate/Shareholder Income Taxation and Allocating Taxing Rights between Countries*, 1st ed. (Amsterdam: IBFD Publications, 1996).

[21] Roger H Gordon and Jeffrey K MacKie-Mason, 'Why Is There Corporate Taxation In A Small Open Economy? The Role Of Transfer Pricing And Income Shifting', *University of Chicago Press* (1995): 67--94.

Tax base

Taxable income refers to the gross income minus the deductions allowed for in the tax laws. The gross income in this instance is all the income derived from whatever sources including gross income from business activities. Gross income is the same as gross profits, where the gross profit is the total receipts from sales minus the cost of the goods sold. A corporation is allowed to carry loss forward for 20 years and back for only 2 years. A group of corporations may make a consolidated return with respect to income tax each having its own specific return. The consolidated return is an aggregate of the taxable income of the group members while the transactions between the group members, though recognized, are deferred.[22]

Tax treatment

The income tax levied on the income of the corporate profits varies with the size of the corporation and amount of profits. It varies from 15% on small incomes to 35% on the higher incomes posted by the corporation. The tax rate charged on qualified personal service corporation is at 35% of its income for the taxable year.[23] Qualified personal service corporation includes the corporations practicing law, health, actuarial science, architecture, engineering, accounting, performing arts and consultancy. These qualified personal services corporations are not recognized in the other countries, though they may be understood and treated under a different guise. An accumulated earnings tax is imposed on corporations who with the intention of avoiding tax on the shareholders, allows the income to accumulate without being distributed. The tax rate imposed on the accumulated income is 20%. The extent to which income is retained in the corporation beyond its operative needs is

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[22] Alan J Auerbach, Henry J Aaron and Robert E Hall, 'Corporate Taxation In The United States', Brookings Papers on Economic Activity (1983): 451--513.

[23] Boris I Bittker, James S Eustice and Jasper L Cummings, 'Federal Income Taxation Of Corporations And Shareholders', Warren, Gorham \& Lamont, iss 3 (1971).

determinant of whether the accumulated income tax rate is to be imposed. This however, does not apply to S corporations, as their income is treated as that of an individual.

Identification and allocation

As concerns distribution of profits of a corporation to its shareholders, there is the dividend distribution that is treated as a part of the gross income. The distribution that is not a dividend is applied and adjusted to reduce the basis of the stock. The non-dividenddistribution that exceeds the basis of the stock is treated as the gain from the sale or exchange of property. Every distribution is made from the earnings and the profits of the corporation, the most recent ones.[24]An interest in a corporation may be treated as stock or indebtedness. This is determined by the relationship of the corporation and the shareholders, whether it is a debtor-creditor relationship.

[24] Alan MacNaughton, 'COMPARATIVE INCOME TAXATION: A STRUCTURAL ANALYSIS', Journal of the American Taxation Association 21, iss 1 (1999): 101.

Bibliography

Harris, Peter. (2013), *Corporate tax law: structure, policy and practice.* (2013). *(*Cambridge University Press) http://ebooks.cambridge.org.ezproxy2.library.usyd.edu.au/ebook.jsf?bid=CBO9781139519922

ITAA 1997.' Income Tax Assessment Act 1997'. Last modified 2014. Accessed May 28, 2014. http://www.comlaw.gov.au/Details/C2014C00160.

ITAA 1936. 'Income Tax Assessment Act'

MacNaughton, Alan. 'Comparative Income Taxation: A Structural Analysis'. *Journal of the American Taxation Association* 21, no. 1 (1999): 101.

Harris, Peter. *Corporate/Shareholder Income Taxation And Allocating Taxing Rights Between Countries*. 1st ed. Amsterdam: IBFD Publications, 1996.

Deutsch, R. L. *Australian Tax Handbook*. 1st ed. Pyrmont, NSW: Thomson, 2006.

Ting, Antony. *The Taxation Of Corporate Groups Under Consolidation*. 1st ed. Cambridge [UK]: Cambridge University Press, 2013.

Income Tax Law (*Körperschaftsteuergesetz*, "KStG")

Income Tax Law (*Einkommensteuergesetz*, "EStG") Corporate

Reorganization Tax Act (Umwandlungssteuergesetz, "UmwStG")

Mombrun, Reginald, and Gail Levin Richmond. *A Complete Introduction To Corporate Taxation*. 1st ed. Durham, N.C.: Carolina Academic Press, 2006.

Devereux, Michael P, and Rachel Griffith. 'The Impact Of Corporate Taxation On The Location Of Capital: A Review'. *Swedish Economic Policy Review* 9, no. 1 (2002): 79--106.

Agundez-Garcia, Ana. 'The Delineation And Apportionment Of An Eu Consolidated Tax Base For Multi-Jurisdictional Corporate Income Taxation: A Review Of Issues And Options' (2006).

Auerbach, Alan J, Henry J Aaron, and Robert E Hall. 'Corporate Taxation In the United States'. *Brookings Papers on Economic Activity* (1983): 451--513.

Weiss, Deborah M, and Jennifer Arlen. 'A Political Theory Of Corporate Taxation'. *Yale Law Journal* 105 (1995): 325.

Hines Jr, James R. 'Corporate Taxation And International Competition' (2005).

Gordon, Roger H, and Jeffrey K MacKie-Mason. 'Why Is There Corporate Taxation In A Small Open Economy? The Role Of Transfer Pricing And Income Shifting'. *University of Chicago Press* (1995): 67--94.

Harris, Peter. *Corporate/Shareholder Income Taxation And Allocating Taxing Rights Between Countries*. 1st ed. Amsterdam: IBFD Publications, 1996.

Bittker, Boris I, James S Eustice, and Jasper L Cummings. 'Federal Income Taxation Of Corporations And Shareholders'. *Warren, Gorham \& Lamont*, no. 3 (1971).

Sackin, Richard. *Germany Tax Guide*. Ebook. 1st ed. PKF International Tax Committee, 2013. Accessed May 28, 2014. http://www.pkf.com/media/1954392/germany%20pkf%20tax%20guide%202013.pdf.

Overall Impression

I suppose that the writer has been writing this paper in different psychological conditions. Some parts of this paper are written clearly, and can be understood easily (though there are some grammatical mistakes). However, then the hypothetic Mr. Hide takes stride, and the author starts to write in a completely incomprehensible manner. That's quite a mystery! Apart from this, the author seems to know what he or she's writing about, and it's just the lack of English speaking skills that spoils this impression.