

## The Relations between VAT Law and Income Tax Law

### EATLP Poster Program for Doctoral Students

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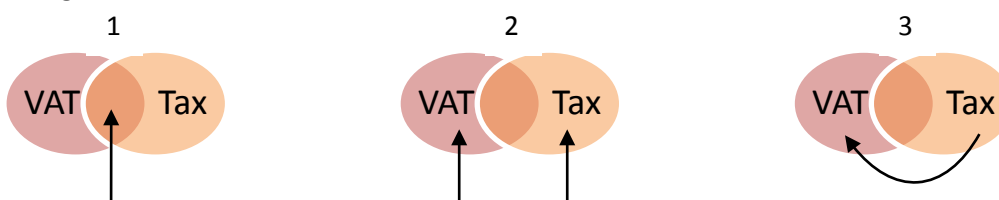
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The purpose of the PhD project is to examine and analyze the relations between VAT law and income tax law which may be demonstrated in different situations in Danish VAT case law when the tax authorities or the courts have to make a decision regarding a VAT issue. The main focus of the relations between VAT law and income tax law in the decision procedure is that particular part of the legal decision-equation which is related to establishing **legal facts/relevant criteria**:

Legal decision = Facts + Law (**Legal facts/relevant criteria** + Legal consequence)

The relations between VAT law and income tax law in terms of the legal facts/relevant criteria applied by the tax authorities or the courts when deciding a VAT case could for example be experienced in the following three situations:

- 1 The application of income tax criteria and the application of VAT criteria are the same, thus, it is in principle not problematic to apply income tax criteria when deciding a VAT issue
- 2 The application of income tax criteria and the application of VAT criteria are separate, thus, it is not problematic to apply income tax criteria when deciding a tax case and to apply VAT criteria when deciding a VAT issue
- 3 The application of income tax criteria and the application of VAT criteria are mixed and the income tax criteria are not in accordance with VAT law, thus, it is problematic to apply income tax criteria when deciding a VAT issue.



Situation 3 is problematic, as the relations between VAT law and income tax law – i.e. the application of income tax criteria is not in accordance with VAT law – are in conflict with EU law. The background for this conflict will be further analyzed, and the possibilities for elimination or minimization of the conflict will be further discussed. The conflict in situation 3 could also be illustrated as follows:

