



International Fiscal Association



IFA 74th Annual Congress Berlin, Germany

ISSUES PAPER

GROUP APPROACH AND SEPARATE ENTITY APPROACH IN DOMESTIC AND INTERNATIONAL TAX LAW

Subject 1 | Monday, 5 September 2022 | 09.00 – 12.00

General Reporters

Johanna Hey (Germany)
Arne Schnitger (Germany)

Chair

Janine Juggins (United Kingdom)

Panel Members

Matt Andrew (New Zealand)
Marlies De Ruiters (Netherlands)
Brigitte Muehlmann (USA)
Belema Obuoforibo (IBFD)
Jasna Voje (EU)

Secretary

Jacco Bouman (Netherlands)

Session overview

Most corporate tax systems are rooted in the concept of a separate legal entity and therefore a transactional approach flows as a natural consequence. However, large corporate Groups are rarely managed on a separate legal entity basis with management accounting information and disclosures by line of business or distinct businesses, by geographic region, or by regulated versus non-regulated activity. In the case of a publicly traded Group the share price performance of a Group may not reflect the sum of its parts, there may be a conglomerate discount or on the other hand a positive adjustment related to the reduction of portfolio risk, or in respect of a leading position in part of the value chain. Groups of companies operating in the same business sector can choose different operating models and pursue different strategies that affect their relative performance, nuances which can get lost when it comes to tax policy. Finally, our reality is that of a globalised world in which the majority of cross border transactions occur between related parties rather than unrelated parties.

Given that different rules for Groups risk creating level playing field challenges key questions to be explored are:

- the extent to which different rules for Groups may be in fact be justified on policy grounds
- to what extent has the separate legal entity concept been eroded and why, and
- do more recent moves towards a less transactional but more formulaic approach provide a potential solution.

After a brief introduction by the Chair, and scene setting by our General Reporters, these topics will be explored through the lens of the EU, the US, and less developed countries, and debated by our Panel. We also look forward to learning from the wisdom of the crowd through our audience polls.