Taxation to electronic commerce: the Argentine VAT

1- Introduction

Normally electronic commerce is understood as those commercial and financial transactions done through the process and transmission of information, including text, sound, and image. That information can be the main purpose of the transaction or be complementary to it.

The definition of electronic commerce is broad, including any kind of commercial transaction where the parties interact electronically instead or doing it in person.

Contact clients, information exchange, sales, customer service and support, payment, and product distribution are some of the forms that electronic commerce takes.

Electronic commerce is not a new phenomenon. For many years the companies exchanged data through different communication networks, but those transactions were limited to inter-firm or intra-firm through private networks.

But the impressive growth of Internet caused the spread of that kind of commerce around the globe, and in very fast way.

Electronic commerce is usually divided in direct, and indirect electronic commerce. The later refers to the acquisition of tangible goods that later need to be physically sent using conventional distribution channels. This kind of e-commerce depends on external factors, like the transport system efficiency.

Direct electronic commerce is that one where the order, the payment, and the delivery are all done on-line. It allows transactions with no obstacles, and it doesn't recognize geographic frontiers.

The limits of electronic commerce are not defined by geographic or national frontiers, but for the coverage of computer networks. Since the main networks have global scope, electronic commerce permit, even to the smaller providers, reach a global presence and make business all around the world.

The customer has the possibility of choose from all the potential providers of a product or service without taking in account their geographic location.

Electronic commerce also makes more competitive the providers of a product, putting them closer to the customer. That is the case when a company uses Internet for its customer service, increasing the level of information regarding with the products, and giving a faster response to customer consults.

With the electronic interaction, the business can have detailed information about the needs and preferences of each costumer, and adjust their products or services automatically. This give place to products tailored to customers needs, but with mass-produced product prices, the so-called mass-personalization.

Electronic commerce also gives the possibility to reduce the delivery chain. There are many cases where the goods are sold directly from the producer to the costumer, slashing costs of intermediary storage, and distribution.

One of the most important contributions made by the electronic transactions is the cost reduction, which can be transferred to substantial reductions in the final prices.

In addition, the market redefinition for existing products and services, electronic commerce also offer completely new products and services.

However there are many limitations to the development of electronic commerce, being between the more important ones, the costumers concern about security. When a costumer post an order through the Net, she has to provide with her personal and, normally, her credit card data, without having the certainty about the absence of a third party "looking" her data for later use.

That kind of insecurity can be avoided with the use of data encryption protocols, like s-http, or SSL, as examples.

Most of the browsers are compatible with the SSL protocol. This protocol works quite simple. Encrypt the data sent through the RSA system when it is in a secure area of the browser, which, cooperating with the server, encrypt the data so it can't be read during the transmission process, even if a third party is able to intercept it.

But that malicious third party, even without being able to read it, can modify the information, and resend it, pretending it is the original. To guaranty the integrity, and the authenticity of the data, as well as the identity of the sender, the digital sign is used.

The digital signature mechanism is used to fulfill the non-repudiation requirement on any commercial transaction[1].

Those obstacles are very likely to be overcome with technological advances, and information to the public, but there are major obstacles that need to be removed; the lack of legislation and clear policies related to electronic commerce.

One of the points that need clarification is the tax problem, and here there is no agreement between the politicians, neither between the scholars.

2-To tax or not to tax

There are many questions that until now don't have a univocal answer, and it is clear that far more research and studies should be done, and more data need to be collected. However, it is necessary to say, that even what should be done in the absence of data, is polemical.

A big group of scholars, politicians, and lobbyists, promote some kind of preferential tax

[1] For and extended and serious explanation about security issues consult L. Jean Camp, *Trust and Risk in Internet Commerce*, MIT Press, 2001.

treatment to electronic commerce, most of them, explicitly or implicitly, favoring a permanent preferential treatment. For example, some of them argue that Internet is in its infancy and has to be stimulated and protected. "They suggest that taxing electronic commerce would throw sand in the gears of economic progress"[2], and refer to the importance of network externalities and the damage that taxes could inflict to them.

Most of the literature refers to the work of just one scholar, Austan Goolsbee from the University of Chicago, fact that probes the urgent need for more research on the topic[3]. It is interesting to point out that, even Goolsbee makes the case just for temporary preferential tax treatment, his findings are used to validate permanent ones.

Other interesting point, and related with the same work, is that when there are some findings that would suggest different courses of action, almost always the one that support a preferential tax treatment is justified, and the one that could call for the imposition of some kind of tax is downplayed.

For example, confronted with the potential revenue lost from Internet Commerce, Goolsbee and Zittrain[4] make a clear analysis that shows that this potential lost will not be significant until few years in the near future, so they conclude that at the moment the preferential tax treatment case still is stronger than the one for imposing taxes.

However, in the same paper, when dealing with the distributional considerations, they find that there is actually some regressiveness what could call for imposition of taxes, but since this regressiveness is lessening over time, they don't see as a problem for the preferential tax treatment.

Without agreeing or disagreeing with the scientific analysis, or ideological motivations of the quite heterogeneous, and big, group "tax free" advocates, my concern is related with the fact that if with more data and quantitative studies we finally find that taxing electronic commerce is necessary and desirable, we will find ourselves in a situation where policy maker will not be able to count with proper and different studies about which tax should be imposed.

What is quite clear until now, is that with the available data is not possible to affirm unequivocally that E-commerce should be taxed, or not.

For that reason, making clear that it doesn't imply being for or against the idea, I will assume that Internet taxes are necessary, and look for the results of the application of some of the current tax principles and laws.

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[2] Charles E. McLure Jr., *The Taxation to Electronic Commerce: Background and Proposal*, in Public Policy and the Internet, Nicholas Imparato, ed, Hoover Institution Press, 2000.

[3] There is an interesting recount of literature in Alan E. Wiseman, *The Internet Economy. Access, Taxes, and Market Structure*, Brooking Institution Press, 2000.

[4] Austan Goolsbee and Jonathan Zittrain, *Evaluating the Costs and Benefits of Taxing Internet Commerce*, 52 National Tax Journal 413 (1999)

3-Taxing in Cyberspace[5]

First it will be necessary to find, prima facie, which of the current taxes is best suited to deal with electronic transactions, and then make an empirical analysis of suitability of the selected tax, in an specific country's law.

Electronic commerce raises a new paradigm in the international context where many elements of traditional trade are replaced for electronic transmissions of difficult tracing, localization, and identification.

The technological advances are putting a special pressure on the principles that govern the systems of taxation on international transactions. Electronic commerce tends to erase the national boundaries, as well as the origin and the destination of the income. In consequence, it is no clear how these incomes should be treated using the current norms.

In most of works on the matter, the principle of neutrality is deemed as the principle that should guide the development of tax policies related with electronic transactions. Therefore, is suggested that the existent tax rules should be applied, or adapted, to electronic commerce.

Today corporations have mobilized and became global, being information-based and participating in enormous amounts of multinational transactions, and this situation puts pressure on the existing international taxation rules creating the risk of double taxation or non taxation at all.

International double taxation could be defined as the action resulting of applying comparable taxes in more than one Estate, regarding with the same earnings, in the same period and to the same taxpayer. In order to avoid or mitigate this situation, most Estates have established bilateral or multilateral tax treaties with other countries to give a credit for the double imposition, or have adapted their own individual tax laws in order to exempt the already paid tax.

Even if usually a country has separate treaties for different countries, with different terms[6], normally that tax treaties give to the residence country an unlimited right to tax the worldwide profits of resident companies and limit or eliminate the source country's right to tax. Nonresident companies are commonly taxed only on those profits that arise from a source within the nonresident country's jurisdiction. In order to avoid double taxation when a company is resident in one state with income originating in another, most tax treaties provide that for profits to qualify as having arisen in the source country, they must have been earned through a permanent establishment created by the nonresident company in that jurisdiction. Furthermore,

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[5] The term Cyberspace was created by William Gibson and became popular in his science fiction novel, Neuromancer, where it was used to" describe the world of computers and the society that gathers around them". Gibson, William, *Neuromancer*, 1984

[6] Just as example, USA has 48 of such a treaties. The Department of the Treasury of United States of America, *Selected Tax Policy Implications of Global Electronic Commerce*, Washington, DC, 1996, also available at http://www.ustreas.gov/treasury/internet.html

"[s]ource countries tend to give up their source-based taxing rights over a business profits if they are not attributable to a 'permanent establishment' or 'fixed base' in their jurisdiction"[7]. From the previous analysis it looks like in the ability to find if an enterprise has a place of residence or a permanent establishment or both in a determinate tax jurisdiction rest the capability to tax profits from any kind of business and, in our case, of electronic commerce.

Analysis of typical electronic commerce activities shows the difficulty of actually applying that kind of rules to the Internet. The general configuration of the Internet poses the biggest challenge for taxing electronic commerce. If we place a homepage with commercial purposes in any place of the world, that store will be present in everywhere. There is no central, worldwide, technical control point, and it is difficult to assign a physical location for taxation purposes to the component parts of electronic transactions or the digital bits associated therewith, and thus, by extension to the companies doing business via the Internet[8]. In addition, users of the Internet have no control over, and usually no specific knowledge of, the path that is traveled by the information they seek or publish[9]. That creates uncertainty since companies embraced in e-commerce don't know where are or are not subject to taxation and leave open the possibility of international double taxation or non-taxation.

In order to understand the international taxation issues that affect electronic commerce, it is necessary to have a rudimentary understanding of the terminology, structure, and workings of the Internet.[10] However that explanation is far from the scope of this paper, so I will assume that the structure is already known.

The taxation authorities attempt to apply traditional international tax treaty concepts, such as residency and permanent establishment, to business transactions taking place in Cyberspace is creating a big confusion and here we will analyze those concepts and their possible application.

The location of servers is irrelevant since users around the world can access them without taking in account or knowing if the information that they are receiving is originated next door or from the opposite side of the world. The individual computers or terminals where the sites originate may even be laptop or mobile units, which can move through several countries in a matter of hours without any corresponding change or movement of the domain name. Alternatively, the owner of the domain name can easily switch it from being associated with one server to another, even one in a different country. And, all of these changes and updates can be made remotely—from any location worldwide.

[7] The Department of the Treasury of United States of America, *supra note*.

[8] For further readings on Internet "governance", see Kahin, Brian, and James H. Keller, ed., *Coordinating the Internet*, a publication of the Harvard Information Infrastructure Project, The MIT Press, 1997.

[9] Even controlling is not possible, the route that the information follows can be traced though an Internet application "Traceroute", which can be used freely at http://www.traceroute.org/ .

[10] I think that good explanations can be found in the following law related books: Doernberg, R. L., and L. Hinnekens, *Electronic Commerce and International Taxation*, Kluwer Law International, 1999. Johnston, D. et al, *CIBERLAW, What You Need to Know About Doing Business Online*, Stoddart, 1997.

Finally, even if it were possible to associate a particular domain name with a certain person and computer, they could be located in separate countries anywhere in the world. These problems in determining a person's identity and a person or computer's location make very difficult to apply standard international tax principles to electronic commerce.

The first and main taxation problem is centered on the fact that for businesses existing and doing business in cyberspace, physical presence is essentially "electrons floating over wire."[11] To say that the digitized information traveling between computer terminals around the globe either does or does not constitute a "presence" for tax purposes would result in Internet enterprises being "present" everywhere or no where, respectively.

As the security on the Web grows and users become comfortable with providing personal financial information to companies online, it is felt that even major purchases of jewelry, cars, land, and houses will start taking place electronically. Such huge amounts of money changing hands through an "untaxable" medium could pose a great threat to the revenue flow of governments around the world[12].

As the importance of the international dimension of income taxation has grown, an international consensus has emerged regarding the structure of international income tax rules. Generally, countries tax income considered having source within their borders. Many of these countries, including the United States, also tax all income of their residents, regardless of where such income is earned. These tax principles may lead to double-taxation in situations where income is not earned in the residence country. Countries have often turned to tax treaties to alleviate such problems.

International tax treaties are used to delineate agreed upon rules of taxation, and usually centered on providing relief from double taxation, between the parties to the treaty[13]. Through the concepts of permanent establishment and business profits, whereby source countries relinquish their source-based taxation rights over business profits not connected with a fixed base in their country, double taxation treaties give the residence country an unlimited right to tax while limiting the source country's right to tax.

Where business profits do derive from a fixed base in the source country, the rules require that the residence country refrain from taxing those same profits, at least to the extent that they are taxed by the source country. This may be accomplished by either exempting the foreign source income from tax altogether or by granting a foreign tax credit with respect to that income.

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[11] Commerce on the Net Poses Knotty Tax Issues, NYLJ (Sept. 5, 1996) (quoting Glenn Newman, of counsel, at Roberts and Holland LLP) cited in, Thorpe, Kyrie, *International Taxation of Electronic Commerce: Is the Internet Age Rendering the Concept of Permanent Establishment Obsolete?*

[12] "The Information Technology Association of America claims that what is lost in some taxes will be compensated for in other areas…" Swindells C. et al, *Legal Regulation of Electronic Commerce*.

[13] Double taxation is especially problematic when both taxing countries have high tax rates.

4-The Concept of Permanent Establishment and Electronic Transactions

Finding that the profits derived from a specific source is an important requirement that must be met prior to allowance of source taxation, but since in practice it is usually a concept that is relatively logical and easy to apply, the question of permanent establishment becomes the one to resolve. One of the most significant provisions included in most international tax treaties is a listing of activities that lead to a finding that a business operation has a permanent establishment in a given country[14]. If the business enterprise has a permanent establishment in the source country, the source country has the right to tax. Otherwise, the income is exempt from tax, or under a default provision, the resident country obtains authority to tax the income.

The concept of permanent establishment is based on a requirement that an enterprise have a sufficient presence through which it conducts business in the source country before it can become subject to taxation by that country.

In order to find if an income obtained from transactions taking place on the Internet qualifies for source taxation, the presence in the source country under the definition of permanent establishment written in the source country treaty with the corporation's residence country should be found. In the absence of a treaty the source country national law should be revised. A permanent establishment is most often defined as "a place of management, a branch, an office, a factory, a workshop, a mine, quarry or other place of extraction of natural resources, or a building site or assembly project which exists for more than a certain period (6 to 12 months) and in certain circumstances an agent or permanent representative."[15] Under most current income tax treaties, a permanent establishment does not include the use of facilities solely for the purpose of storage, display, or delivery of goods and merchandise.

The problem becomes more acute when we think in the electronic context. It is very common that no business offices exist, and people connect with one web from locations all over the world. The server where the web site is located may lie within the borders of any nation in the world irrespective of the origin of the information which it contains, and the web page itself is likely to be accessible to independent users in dozens of countries simultaneously. For those reasons, "with regard to taxation of Internet transactions, questions arise as to whether a server, telecommunications device (such as a cable used in transmission), computer terminal, or web page might be considered a permanent establishment"[16]. An additional issue may be whether using an Internet service provider or software agent a company may be deemed to have a permanent establishment based on the use of them.

[14] For the purpose of this paper, the existence of the list, not the content is important. However, for those interested in it, can be found at the OECD Model Treaty for International Taxation, available at http://www.lexmercatoria.com

[15] International Bureau of Fiscal Documentation, *International Tax Glossary*, 1988..

[16] Thorpe, Kyrie, *International Taxation of Electronic Commerce: Is the Inter net Age Rendering the Concept of Permanent Establishment Obsolete?*

Also, with the emergence of electronic commerce, a concept based on geographical fixedness such as permanent establishment may no longer be applicable or relevant. In operation the permanent establishment concept might be easily manipulated for tax purposes. For example, if a server were deemed to constitute a permanent establishment, a multinational business could avoid having a permanent establishment by continuously moving its web site from a server in one tax jurisdiction to a server in another. On the other hand, a company could locate its web site on a server in a tax haven in order to have a permanent establishment in that tax haven, but use that server to conduct business anywhere in the world. Therefore, "questions also exist regarding how to define permanent establishment in a world of electronic commerce, and whether permanent establishment should continue to be the appropriate minimal test for jurisdiction to tax"[17].

From the current analysis, it is possible to conclude that the abandonment of the concept of permanent establishment through the adoption of the residence principle is deemed by the times[18]. However it is necessary to point out that in a virtual world, the concept of residence is even easier to manipulate, and could result in far greater amount of tax avoidance.

There are many works and authors that suggest that some kind of consumption tax should be used, being the Value-added Tax the most suitable. Until now the analysis was quite theoretical and general, but since there are many variations in the VAT rules from country to country, I will analyze Argentine VAT, a country where according with its tax administration agency VAT represents the pillar of the tax system, and its impact on E-commerce, coupled with a brief analysis of the situation of E-commerce in that country.

5-Argentina and the Value-added Tax

Following there is a brief explanation of some features of the Argentine Value-Added Tax, mainly in the points that are pertinent to, or can be analyzed in the light of, electronic commerce.

The Argentine Value Added Tax is a national, co-shared with the provinces, and a multistage tax. This last characteristic means that is collected throughout many steps of the production chain.

However, it has incidence just once in the price of the taxed goods and services. This is the result of taxing not the total value of the operations, but just the value that is added in each stage, taking from this fact its name.

The VAT is an indirect tax, because even if it takes as passive subjects the producers of goods, and receiver of services in the case of imported ones, at the end affects only to the final consumer. Therefore we are in presence of a tax on consumption with regressive characteristics.

[17] Kyrie E. Thorpe, *op. cit.*
[18] That is the position of the US Treasury, as example.

In order to ameliorate those characteristics, differential rates and exemptions can be established.

In the other hand, the VAT is a real obligation, which it doesn't take in account the personal conditions of the contributor.

If we abstain considering the distortion effect of the retentions and collecting regimes, the VAT is a neutral tax. It is important to remember that the neutrality, from the production point of view, is attained when a tax doesn't induce companies to change their production techniques.

According with Argentine VAT law, the contributors are divided in different categories, and the main difference resides in being the tax discriminated in the invoice, or included in the total price. This division takes great importance because in that difference is found the possibility of using the paid tax as a fiscal credit or not, which becomes even more important in the cases of import-export operations. However, the purpose of this paper is to elucidate if the administration will perceive the tax or not, in the case of electronic commerce transactions, and not the mechanism that the taxpayers can use for recovering them. That division will be explained just in the deemed cases.

Regarding with the place where the tax is levied, the VAT can be applied using two different principles, being one of them the destination-country principle. It refers to the application of the tax in the country where the goods are used. Therefore, the definitive imports are taxed, being the exports taxed to a rate of 0%[19].

The opposite case is the origin-based principle, where the tax is levied at the country of the producer. This principle is not widely accepted, and used, since puts an extra burden on the exporter, making more difficult to compete if international markets.

Generally, the list of activities subject to duty of the Argentine VAT, is conformed by the sale of movable goods situated or placed in the territory of the country, carried out by the persons, both physical and juridical, specified in the law; definitive imports of movable goods; the works, leases, and services carried out in Argentina; the services carried out in foreign country but which it enjoyed in Argentina; and the interest of financial operations not covered by the tax.

In every tax there are two subjects: the active subject, the tax administration, and the passive subject, the taxpayer. In the Argentine VAT law these passive subjects are enumerated at the Art. 4 of the VAT Law.

It considers passive subjects to those who make habitual sale of movable goods. It also includes those who realize commercial acts incidentally.

Other passive subjects are the commission agent and consignees, the importers, the construction companies, and the performers of services reached by the tax. The law also include as passive subjects the receivers of services carried out in foreign country, but which its

[19] If instead of being taxed at a 0% rate, the operation were not taxed, the exporter would loose the possi bility of recovering the tax already paid during the other steps of the production chain.

effective exploitation takes part in the Argentina. Since is not possible to tax to the performers in the foreign country, the law that created this object, import of services[20], gives the responsibility to the national receiver.

Depending of the activity, the obligation derived from the VAT will start in different moments. In the cases of sales of movable goods, performance of services, or lease of services and works carried out on goods, the tax obligation starts in the moment that the good is deliver, the invoice is emitted, or equivalent act, whatever happens first. In order the taxable act be perfected, the effective existence and availability of the good are deemed.

When the taxable activity is the supply of a service, or a lease of works and services, it is perfected when the performance is finished, or when is paid partially or in total, whatever takes place earlier.

In the case of lease of goods, the obligation starts when the payment is due or is made effective, what occurs first.

6-Electronic commerce in Argentina

The government is studying certain measures to impulse the growth of the virtual market[21]. Between those measures when can highlight the reduction of telecommunication costs for Internet connection, modifications on the development of education networks, and legal protection to electronic contents.

In order to count with better data to pursue that goal, the national census carried out on November 18th, 2001, was the first one measuring the use of information technologies.

In 1998 was created a multi-agency Task Force on Electronic Commerce and Foreign Trade within the Ministry of Economy.

The purpose of this group is exam the effects on the external trade of Argentina of the different modalities of electronic commerce and the challenges to different public policies.

The task force was divided in five sub-groups treating each of them different aspects: commercial, legal, taxation, financial, and technological.

The sub-group of Taxation Issues had the task of analyze the impact on tax revenue. First they analyzed the phenomenon of tax avoidance and tax evasion as a distortion factor of the electronic commerce, and the tax and customs' situation related to the intangible goods and services, in the light of current legislation and international agreements and compromises.

The different sub-groups presented their reports, and those reports were discussed in a plenary session. As a consequence of this session, in September 1998 the first Progress Report on Electronic Commerce and Foreign Trade was approved.

Regarding with taxation matters, the report distinguish between those transactions where the

[20] Argentine Law 25,063/98
[21] Market that is doubling its size every year in Latin America.

customs take part, indirect electronic commerce, and those in which is not possible the administration intervention.

Between the conclusions reached in the report, and taking in account the legislation in effect at that time, we can point out the it was not possible to apply consumption taxes (VAT), neither customs duties, to intangible goods and services provided from foreign countries. It could be said that electronic commerce for its special characteristics facilitates tax avoidance and evasion, being a distortion factor of international trade. However, it also remembers that any change to domestic laws should be in accordance with international treaties and agreements.

The report also indicates that direct electronic commerce put in the domestic market products not taxed with VAT or duties, generating unfair competence, lost of revenue, and lack of control, causing a situation lacking of tax equity.

By the Tax Reform of 1998, Law Number 25,063, published at the Official Bulletin on December 30th, 1998, the described scenario was modified.

The services carried out in other jurisdiction but effectively exploited or used in Argentina, when the receivers of the services are responsible for other taxable activities, were incorporated to the VAT's list of taxable activities.

Those imports of services are not taxed when the receiver of them is the National State, or the provinces, municipalities, the City of Buenos Aires, and its dependences.

The person responsible for the tax will be the receiver of the service, and the taxable activity will take place when the service is totally performed, or when is paid, totally or partially, whatever happens earlier. The amount of the tax will be calculated on the net prize of the operation written in the invoice.

The same reform also modified the Customs Code, substituting the article 10, which now estates that a good is nay object susceptible of being imported or exported, and also establishes that the lease and performance of services provided from a foreign country, with the exemption of those that are not provided as commercial or don't compete with any domestic provider, will be considered as goods. The same treatment will be given to copyrights and intellectual property rights.

Following that First Report the different sub-groups were in charge of elaborating recommendations on public policies designed to foster the development of this new tool of economic progress. In March 1999, those recommendations, elaborated with representatives from the private sector, were approved.

The recommendations are divided into three big themes: commercial policy, legal matters, and tax policy. In this paper I will refer jus to the recommendations on tax policy.

The sub-group of Taxation recommended to commend to the Undersecretary of Tax Pdicy the realization of a study in order to analyze the potential impact of electronic commerce on consumption taxes, income taxes, and double taxation treaties, and examine the potential effects

on revenue and tax administration caused by the elimination of intermediaries brought by electronic commerce.

It also commit the Undersecretary with the task of developing a consensus between government and private sector to attenuate the negative effects that Internet can cause in the taxation and customs systems, and establish new methods to collect information about transactions.

Finally, gives the criteria to treat electronic transactions. Between the principles we can point out: neutrality and fairness; the system should be simple and cost effective; the rules should provide legal certainty; minimize tax avoidance and evasion; and harmonization with international tax treaties and agreements.

At the end of 1999, the Ministry of Economy approved the Second Report of the Group.

The sub-group on Taxation analyzed electronic commerce and different modalities of taxation, taking special consideration on the fact that results of fundamental importance the distinction between direct electronic commerce and indirect one. The later has no difference with telephone sales, but in the case of direct one, like sale of music, designs, software, the commercialization includes immaterial goods, and it is necessary to define properly each of the contracts involved in order to clarify what should be the tax treatment.

When treating the problematic of taxation to electronic transactions, it is necessary to distinguish if the buyer is a physical person or a company.

In the case of being the buyer a physical person, and the digitalized product being bought for personal consumption, we are in front of a service.

In that case, the Argentine VAT will show the following alternatives:

-If the operation is carried out by a foreign performer the tax is not levied.

-When the transaction involves a service carried out for a domestic supplier and the buyer is foreigner, it is taxed with a 0 rate, which allows to the supplier to recover the VAT of the inputs.

-In the case that both the buyer and the supplier are in Argentina, the tax is levied.

In the case of software transmission, we have to distinguish the type of contract to know if we are in the presence of a license of use or a license of exploitation. In the first case we are in front of a service, and in the second one will be treated as a intellectual property right exploitation.

Assuming that we have a license of use, the operation will be taxed irrespective the location of the supplier. However, in the case of a foreign supplier, the tax will not be levied if the buyer is a governmental agency.

If it is a license of exploitation the transaction doesn't belong to the list of taxable activities.

The same case will be observed in the case of transmission of digitalized products as music, books, database access, etc. In those cases will be also necessary to distinguish the nature of the contract, but is important to point out that in most cases will be treated as intellectual property

right transfer, resulting in the absence of tax.

In the case of transfer of technical information, like designs, we are in front of a technology transfer, and the operation is out of the reach of the VAT.

Finally, it is interesting to analyze the case of lease of advertisement space on web pages.

Once developed the web site, its owners can lease its space to different companies interested in show their products or advertise their institutions in Internet. In this way, a business similar to publicity on the habitual media is created.

The price of that service will vary according with the hits that a web page receives, in the same way that rating decides the price of television advertisement.

The VAT Law, in its article 3, includes as a taxable activity the "services performed in the territory of the Nation"[22], and in case of international telecommunications, they will be treated as taking place in the country when the retribution could be endorsed to the company residing in it. This rule could be used to include the services preformed or offered through a web page.

Still will be necessary to elucidate when should be considered an export or an import. To that purpose, the place of economic use of the services needs to be stated.

7-Conclusion

Many people believe that they saw the end of the digital economy after the crash of the technological papers in Wall Street, but what they actually saw is the beginning of it. The global information infrastructure, the information technology, and telecommunication are modifying the way of doing almost everything. Even when I'm writing this there is a small window open that tells me how bad Argentina is doing on the markets, and the latest news about the war in the South of Asia.

The phenomenon of economic globalization, accentuated by the communication technologies, has brought, between its many consequences, the erosion of national boundaries and geographic distances for the economic agents. They can cross countries barriers in order to conquer new markets, and this brings multiple problems in taxation matters.

As we saw, the principles of international and national taxation were created in an ambit technologically different, and it looks estrange when most of scholars insist in the necessity of using the same principles, some of them accepting some adaptations.

In this context, the income tax, in its international dimension, with its need of the concept of permanent establishment, looks like a secure candidate to an early retirement, although still will have many years around. It will be supported for the fact that still the economy that can make use of it is far bigger than the one that makes it obsolete, and for a big group of politicians and scholar that will keep supporting it.

[22] The VAT law can be reached at http://www.afip.gov.ar/normativa/Leyes/iva_Ley.html

Therefore, there is a real need to find new principles and systems that permit to keep the same level of revenue within the economy that is starting.

Those countries that have their tax system based on income tax, are willing to press the rest of the world to accept a shift toward the residence principle for income taxation, without realizing that in the new economy the residence of many companies will be irrelevant to their business, and they will place in whatever country gives them preferential treatment.

In consequence taxing the transaction itself looks like a possible solution, special with a Value-Added Tax system, since its multistage system permits a better tracing of the transactions.

But as we saw in the case of Argentine VAT, there are many transactions that go untaxed if we don't reform some of its procedures, and principles.

Other option is to look for new and completely different possibilities, as the X-Tax proposed by Professor Bradford[23], which could deliver income taxation but using the positive features of a VAT system.

However, wherever one is situated in the political spectrum, this year that is finishing shows that is unthinkable a society without a government with a budget, and also is illustrates that even in the new digital economy, the government will be in need of huge amount of funds.

After the tragic events of September 11th, we saw the same conservatives that see Internet taxes as anathema asking for special packages for the airline industry, special funds for New York City reconstruction, huge budgets for distant wars, we also witness stimulus packages being asked from both parties in the United States, special budgets approved in Japan, special funds requested for financial crisis like the Argentine one, and so on. And all those funds, in one way or another, come, and will keep coming, from taxes.

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[23] Bradford, D.F., "Blueprint for International Tax Reform," Brooklyn Journal of International Law, (XXVI-4) 2001, pp. 1449-1463

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