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PROPUESTA DE COMUNICACION

1. Título completo de la Comunicación.

Islamic Financing Schemes after Brexit: Sharia as Choice of Law under Regulation Rome I and its Tax Implications

2. Nombre y apellidos del autor/es.

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4. Abstract de la Comunicación (entre 500 y 1000 palabras máximo).

This paper analyzes the existing difficulties arising from the qualification of IF transactions under European Tax and Conflict of Laws' rules, and the likely impact of 'Brexit' on such practices. Given that 80% of all Islamic financings are conducted through London under a scheme named murabaha, we will focus on a standard transaction in which a GCC importing party enters into a murabaha agreement with a UK IF institution in order to finance an asset purchase from an EU exporting party.

Firstly, we will briefly present the cornerstones of IF that, in substance, provide rules both for the definition of admissible goods and activities under contract law, and for the allocation of profit and risk among contracting parties.

Secondly, we will describe under which circumstances Sharia is a legal system capable of being chosen under EU Conflict of Laws' rules, and assess the complexities deriving from the qualification of a murabaha scheme either as a single overall agreement or as a set of different sub-transactions.

Thirdly, we will discuss the qualification of a murabaha agreement under Domestic and International Tax Law. We will show that there is a risk of multiple taxation, both under VAT and Income Tax, especially if the asset purchase concerns Real Estate. The outcome of this scenario deviates from the tax result of a transaction conducted under a conventional financing scheme. Our contention is that such disparity contradicts EU principles of tax neutrality and equality.

Finally, we will address the impact of 'Brexit' on the qualification of murabaha agreements under Tax and Conflict of Laws considerations. Our findings show that it is necessary to provide for an EU Directive on the qualification and tax treatment of IF schemes in order to preserve them as a meaningful tool of financing EU investments from and to the GCC.

5. Correo electrónico.

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