

Kluwer International Tax Blog

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Ana Paula Dourado (General Editor of Intertax) · Thursday, October 17th, 2024

We are happy to inform you that the latest issue of the journal is now available and includes the following contributions:

Tamir Shanan, Doron Narotzki & Noam Zamir, *A Time to Institutionalize the International Tax Regime*

The paper proposes replacing the existing and outdated decentralized international tax system with a centralized tax authority that would include four branches: a hierarchic judiciary branch that would replace/subject thousands of domestic tax tribunals, a legislative branch that would replace the existing inclusive Organization for Economic Cooperation and Development (OECD) forum that would be more balanced and as such be able to continue developing the international tax policy in the coming challenges that the Twenty-first century will bring, an executive branch that would be responsible for issuing multilateral letter ruling and guidance of how to implement the international principles and norms, assist poor countries whose costs in implementing beneficial practices are high and offer sanctions for countries that secretly deviate from the general principles and foster harmful tax principles. Furthermore, we propose to establish an audit branch that would supervise the compliance of the different countries. The article therefore blesses the recent multilateral cooperation of approximately 140 countries and suggests the time has come to institutionalize the international tax order and centralize it to better face the coming challenges that the technological breakthroughs would bring.

Ricardo García Antón, *Mirroring Comparative Fiscal Federalism to Design the EU Revenue Side*

This contribution aims to incorporate comparative fiscal federalism into the design of the EU revenue side. The author concludes that there has been no such ‘Hamiltonian moment’ at the EU after the introduction of the Next Generation Economic Recovery Program (NGEU) and the own resources scheduled in the EU Own Resources Decision (ORD) for the period 2021–2027. The ORD follows a short-term vision needed to pay back the massive debts incurred due to the NGEU without fully endorsing a fiscal federalism route. Learning how the revenue side is structured in decentralized countries could offer important proxies to be applied at the EU level, a centripetal or ‘bottom-up federation’. Federalizing the EU revenue side would imply an explicit recognition of the EU’s power to create income/indirect taxes coupled with the need to provide public goods to European citizens.

Gianluigi Bizioli, *A Hamiltonian Moment for EU Taxation?*

This contribution explores the possibility of a ‘Hamiltonian moment’ in the European Union (EU) public finances, drawing a parallel with the historical experience of the United States (US) in the late eighteenth and early nineteenth centuries. It examines the different theoretical positions on the existence and scope of the EU’s authority to tax, as well as the legal and political challenges that such an authority would entail. It argues that the EU does have the power to levy taxes for funding its budget, based on Article 311 of the Treaty on the Functioning of the EU (TFEU), but that this power is constrained by the principles stemming from the common constitutional traditions, the respect for national identities, and the need for democratic legitimation. It suggests that a ‘Hamiltonian moment’ in the EU would require a qualitative change in the structure and size of the EU budget, as well as a stronger involvement of the European Parliament and the national parliaments in the decision-making process on the system of own resources.

Kristof Boel, *Is the Privilege Too Privileged? the Orde van de Vlaamse Balies Case Revisited*

The objective of this article is to analyse the concept of the legal professional privilege in the field of taxation. First, the Orde van de Vlaamse Balies case is examined in which the CJEU struck down an element of the mandatory disclosure regime contained in the fifth amendment to the Directive on Administrative Cooperation (DAC 6) as it was considered a disproportionate infringement of the legal professional privilege. The article challenges whether the CJEU was correct in simply further developing its own and the ECtHR’s precedence to reach the conclusion that all activities of lawyers as targeted by the DAC 6 fall within the scope of the strengthened protection of legal professional privilege. Additionally, it is concluded that the CJEU insufficiently took into account the DAC 6’s broader goals. Next, the article investigates ethical considerations concerning legal professional privilege, discussing particularly how it should be delineated in the field of taxation. The article concludes that the scope of legal professional privilege should not be expanded to include the activities of lawyers in tax planning.

F. Nyende, *Assessing the Impact of Corruption on Taxpayer Perceptions of Fairness: Insights from SMEs in Uganda*

Corruption can undermine taxpayers’ trust in the fairness of how public funds are allocated and tax procedures are carried out. While the relationship between corruption and tax system unfairness is largely unexplored, a significant body of knowledge covers these constructs in isolation. This study assesses the influence of corruption on Ugandan small and medium enterprises (SMEs’) perception of tax fairness. The authors use a thematic analysis on semi-structured interview data to assess the effects of corruption on tax fairness perceptions. The findings reveal four types of corruption: petty corruption, petty tax corruption, political corruption, and grand corruption. These have significant influence on income tax unfairness perceptions among SME firms. Tax and government officers as well as the political elite who demand bribes, embezzle taxpayers’ funds, and discriminate among taxpayers based on tribal sentiments incite taxpayers’ distributive and procedural tax unfairness perceptions. The results demonstrate that the government must strive to create an honest bureaucracy and tax administration to improve tax fairness perceptions. This can be done by allowing anti-corruption agencies to work professionally and independently of political influence.

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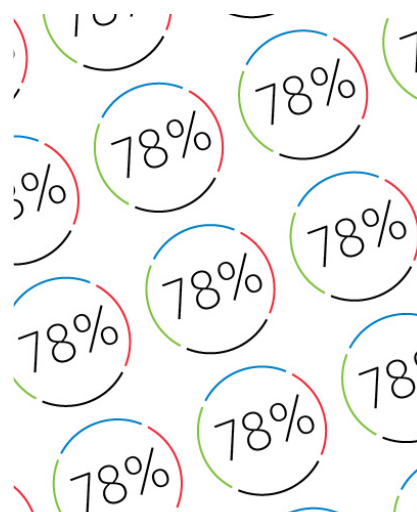
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