

BUILDING TRUST IN TAXATION

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Edited by
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PREFACE

Recent developments show that the contemporary tax-landscape is going through a legitimacy crisis in virtually all Western democracies and even beyond.

This open crisis seems to be triggered during the last decade by a few important macro-economic disturbances. The US real estate crisis in 2007 disturbed the financial sector, which in its turn led at the beginning of this decade to a fiscal crisis within many European countries (such as Greece, Spain, Portugal) and consequently – within the EU – to the so-called Euro crisis. In reaction national authorities were forced worldwide into greater fiscal orthodoxy. As a result they planned important cuts in government spending and focused on a more stringent monitoring of compliance by taxpayers. In this context the Stability and Growth Pact (SGP), as a set of rules designed to ensure that countries in the European Union pursue sound public finances and coordinate their fiscal policies, is exemplary.

At the same time revelations in the public media (such as Swissleaks, Luxleaks and the Panama papers) revealed that some multinational companies, still succeed in minimising the fiscal pressure on their globally acquired profits by pitting the fiscal regimes of countries in which they operate, against each other. The multiplicity of fiscal regimes and the inconsistencies between these regimes still offer numerous possibilities for fiscal optimisation. Also high net worth individuals are able to circumvent taxes on their income and/or assets through a variety of national and international tax schemes. There is even a high-tech industry that seeks to guide and assist clients with their tax dealings in order to have them pay as little tax as possible.

On the other hand, many countries (often smaller countries) – even in the European Union – use their tax sovereignty as a lever to compete with each other to attracting businesses and high net worth individuals with very attractive fiscal conditions by means of various techniques such as tax-friendly regimes (tax shelters), tax exemptions, tariff reductions and rulings. In the European Union the Commission tries to tackle these national tax regimes within the framework of the state aid rules and by recommending some policy rules against harmful tax competition.

Moreover, tax competition is not only harmful to government budgets, but also companies that do not operate (or operate less) cross-border have therefore fewer opportunities for such fiscal optimisations. It also generates unfair treatment between individual taxpayers. More than ordinary taxpayers, high net worth individuals have the opportunity to avoid taxes. In addition,

non-governmental organisations (NGO) are also intervening in this debate. They experience aggressive tax planning schemes as detrimental for the developing countries.

For many years countries were not able or sometimes not willing to deal adequately with these tax avoidance schemes. Apparently even international fora (such as the G20 and the OECD), and supranational institutions (like the European Union) were initially not able or interested to tackle appropriately tax avoidance or tax evasion schemes.

It is therefore not surprising that people and corporations have less trust in their governments and are reluctant to give their share of money for redistribution. They seem no longer willing to pay taxes that serve the general good of the community; they no longer trust governments with their money. Nonetheless the essence of taxation consists in collecting state revenue in large sums. This revenue is then redistributed or reallocated based upon political decisions which are made by the representatives of the people.

Equally governments have lost trust in their citizens to pay their taxes, which results in them implementing aggressive tax-collection policies and a rising level of uncertainty.

However, the foundation of a sound taxation system in a democracy is the trust of the public that taxes have been equitably levied and will be efficiently and effectively used to support collective facilities that also benefit the taxpayer.

One of the key questions with regard to this issue is whether states or collective institutions are able to generate sufficient levels of trust so they can collect enough revenue? As mentioned above, this is less and less frequently the case. So the next question arises: who or what is responsible for this decline in trust? What are the key factors contributing to the general decline in trust? Some other relevant questions that might shed light on the issue include: why do different states have different levels of trust? Related to this question is the question whether this is a strictly fiscal issue; meaning should we search for the issue in the properties of tax systems and the differences between tax systems? Or are there rather institutional structures and political ideologies which differ from country to country that might be able to explain this difference?

This book seeks to analyse a couple of issues related to the aforementioned loss of trust within the realm of taxation. It came into existence based upon a conference organised by the University Centre Saint-Ignatius Antwerp (UCSIA) and the Antwerp Tax Academy (ATA) that took place from 6th to 8th May 2015 at the University of Antwerp.¹ Several international scholars from different

¹ The full programme of this conference can be consulted on the website of Antwerp Tax Academy: <https://www.uantwerpen.be/en/about-uantwerp/organisational-structure/centres-and-institutes/antwerp-tax-academy/activities/passed-activities/> or the website of UCSIA: http://www.ucsia.org/main.aspx?c=*UCSIAENG2&n=119746.

areas of research came together to discuss the issue of trust and taxation. While this book is not a collection of the conference speeches given during those days, it is a bundle of texts that carries with it the same general spirit as that conference. Based upon the proceedings during the conference, several authors were contacted and asked to contribute to this book. The result is a collection of texts by some of the authors present at the conference, and on top of that a couple of extra contributions by scholars who are working with similar topics that have direct relevance to the proceedings of the conference. Some of the texts are based upon the author's presentation while others are not based upon their presentation but rather address some of the key issues dealt with during the conference.

The initiator of this conference was a concept note by UCSIA on the issue of taxation and trust. UCSIA² is an offspring of the former Jesuit institution of UFSIA. It is an independent non-profit organisation founded by the Jesuit Order and members of the former UFSIA with the aim of continuing the Jesuit tradition of involvement in university education, research and community service in the Flemish and Antwerp region. The main focus of UCSIA is problems and issues that express the Christian ideology, thus serving the faith and culture and contributing to a more just society.

The ATA³ is an interfaculty institute for tax science within the University of Antwerp, that was founded on 20 November 2012 and results from a co-operation between the faculties of Law, Arts, Applied Economics, Political and Social Sciences, and the Antwerp Management School. The prime objective of ATA is to promote, facilitate and conduct multidisciplinary, fundamental and applied scientific research. ATA is also an open, pluralistic platform for collaboration between the academic world and society which aims to develop and acquire insights into taxation through multidisciplinary scientific research. By doing so, ATA hopes to contribute to tax science and thus to society.

Both organisations worked together to create the conference. Due to the interdisciplinary nature of those organisations the conference was also a coming together of scholars from all kinds of different areas: Law, Arts, Applied Economics, Political and Social Sciences and Philosophy. By joining hands and meeting each other outside their different disciplines, scholars were able to combine and discuss issues from various angles. By doing so the conference – as well as the book – is a multidisciplinary work that seeks to strengthen our understanding of certain issues based upon a joining of hands.

The editors express their sincere gratitude towards all the participants of the conference, the authors of the several contributions and especially to all those

² <http://www.ucsia.org/>.

³ <http://www.antwerptaxacademy.org>.

responsible within UCSIA and ATA for the organisation of the conference.⁴ Special words of thanks go to Geert Vanhaverbeke (head of administration at UCSIA) and Sara Mels (Project coordinator at UCSIA) for their highly appreciated contribution to the (practical) organisation of the conference.

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