EATLP 2011 Poster Program for Doctoral Students

International Tax Co-operation: Balancing Contrast to Tax Evasion and Taxpayer’s Rights Protection

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REVENUE RULE
«No country ever take notice of the revenue laws of another» (Holman vs Johnson, 1775)

TAX CO-OPERATION

Exchange of information:
- Directive No. 77/799/EEC;
- Art. 26 OECD MTC;
- Tax Information Exchange Agreements (TIEAs);
- Arts. 4-10 MAAT (1988).

Assistance in tax recovery:
- Directive No. 76/308/EEC
  → Directive No. 2010/24/EU;
- Art. 27 OECD MTC;
- Arts. 11-16 MAAT (1988).

NEW OECD STANDARD
(“end of bank secrecy era”)

2009

Bank Secrecy

Enhanced tax co-operation

Taxpayers’ rights protection??

Nowadays, tax co-operation has evolved significantly, but it has not been followed by a parallel development of taxpayers’ rights protection (e.g. right to be informed that tax data are supplied to another State)

ECHR

Applicability also to taxation and, more specifically, to tax assessments (see Ravon, 2008)

Certainty scholars consider that Ravon principles are applicable also to protect taxpayers’ rights involved in exchange of information procedures (e.g. Prof. Lorenzo del Federico)

2009

From the “exchange” of information to the “receiving” of stolen tax information: Liechtenstein, UBS and HSBC cases

Italian tax courts consider that tax assessments based on evidence and bank information unlawfully obtained abroad must be revoked (so-called domino effect)

“Fruit of the Poisonous Tree” Doctrine → devised in criminal law, but in principle applicable also to tax law