GATHERING TAX INFORMATION IN CROSS-BORDER CASES: JOINT TAX AUDITS

Substantive Law:
Taxation linked to matters realised in foreign countries.

Different Solutions/Approaches
1. Extended obligations of documentation for taxpayers → Contrary to European Law? Limitation of verification by the tax authorities remains. Etc.
2. Enhanced relationship between taxpayer and tax authorities → Contrary to Constitutional Law (i.e. right of equal treatment et al.)? Limitation of verification by the authorities remains. Etc.

Procedural Law:
Limited investigation rights in foreign countries.

Main Objectives of the Thesis
• Analyse the legal basis of the gap between taxation rights and investigation rights from a domestic and an international legal perspective.
• Describe, analyse and evaluate the different approaches to overcome the gap, esp. Joint Tax Audits.
  o Point out the different needs of the tax authorities and the taxpayers with regard to Joint Tax Audits.
  o Find solutions for the remaining legal and practical problems concerning Joint Tax Audits (see "Some Specific Research Questions")

Some Specific Research Questions
• What are the main issues with respect to the gap between taxation rights and procedural investigation rights of the states?
• In which cases does which approach suit the best?
• How do the approaches affect the taxpayers (constitutional) rights?
• Which interest should prevail: The rights of the taxpayer or the interests of the states?
• To what extent does the sub-constitutional, constitutional, European and international framework cover and/or limit the approaches to fulfill the gap?
  o Is a transfer of sovereign rights necessary and possible?
  o Which states procedural law is applicable?
  o How, on which level and to what extent is legal protection guaranteed?

Some Hypotheses
• Both the taxpayers’ documentation and the Exchange of Information are limited by practical and legal issues.
• Joint Tax Audits can help to face harmful tax practices.
• Joint Tax Audits can help to accelerate the verification process of the tax base.
• Therefore Joint Tax Audits offer an additional value for both, the tax authorities and the taxpayer.
• Joint Tax Audits need a specific legal framework, which can be established in line with constitutional and international law.
• Tax Authorities need to cooperate and coordinate bi- or multi-nationally to catch up to the multinational entities.

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