Time and Income Tax Law

Computation of Income – Determination of Tax Base – Protection of Legitimate Expectations

**Principle of periodic taxation vs. Ability-to-pay principle**

- Sectional taxation vs. Lifetime income taxation

**Dualism in the computation of taxable income**

- Accrual method
  - Excess of receipts over expenditures
  - Profits and expenses are attributed to the specific period in which the goods were shipped or the services were rendered

- Cash method
  - Difference of the company’s net equity at the end of the business year from the preceding business year
  - Profits and expenses are attributed to the specific period in which the goods were shipped or the services rendered

**Inter-periodic loss compensation**

- Loss carry backward
- Loss carry forward

**Reduction of tax progression**

- Spreading the income over several fiscal years
- Taxation at a lower average tax rate

**‘Real’ Retroactivity vs. Legitimate Expectations**

- Legal provision directly links tax consequences to facts that occurred before the respective provision was officially published
- ‘Tax period-related concept’ vs. ‘taxable event-related concept’

**Legal source of constitutional limitations**

- Limitations are explicitly laid down in a provision
- Limitations are derived from a general principle

**Computation of Income**

- Sectional taxation vs. lifetime income taxation: Is the ability-to-pay principle assessment periodic or over the lifetime?
- Which impact has the computation method (accrual or cash) on the allocation of expenses and the anticipation of expenses?

**Determination of Tax Base**

- Which restrictions on inter-periodic loss compensation are convincing from a tax policy perspective and which are not?
- Which options to counteract the effects of a progressive tax scale are possible?

**Protection of Legitimate Expectations**

- ‘Real’ Retroactivity vs. Legitimate Expectations
- What are the limits of the legislator to retroactively amend tax laws?
- Principle of Equality, Rule of Law, Legal Certainty ...?