

Editorial

Association of European tax professors: a common language in taxation within Europe

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It seems possible that 10 June 1999 was a historic date in the development of the European Union as claimed by Bertil Wiman, professor at the Stockholm School of Economics, when about 80 professors of tax law from all countries of the European Union as well as from Norway and Switzerland stayed at the Stockholm School of Economics following his invitation. The reason for this judgement is that during the afternoon of this day these 80 professors of tax law decided to found the Association of European Tax Professors.

The foundation of the Association of European Tax Professors begs two contradictory questions. Is there any need for such an association? Why was the Association was not founded earlier?

The answer to the first question is yes, such an association is necessary. The preamble of the statutes of the Association gives the answer. The professors of tax law at European universities considered in founding the Association:

- the general importance of taxation;
- the need to learn from the experience of others;
- the need for a common approach to the study of tax issues;
- the progressive development of European integration;
- the effects of that integration on national tax systems;
- the harmonization of taxes within the European Union;
- the growing competition among the national tax systems; and
- the increasing number of cross-border tax cases in Europe.

Within this enumeration one point surprises at a first glance. It is the wording of the point regarding the harmonization of taxes within the European Union. According to its Treaty the European Community has only a competence to harmonize indirect taxes. When mentioning within the preamble that the progressive development of the European integration has a great effect on the various national tax systems, the statute wishes to underline the effect on direct taxation. The European Court of Justice has stressed the impact of the fundamental freedoms granted by the Treaty on direct taxation by a long series of judgments starting

with the *Avoir-Fiscal* case. The closer the European integration, the more the national tax systems within the European Union must be able to work with each other. This is one of the lessons to be learned from the discussion stimulated by the Ruding Report and the Code of Conduct against unfair tax competition. One may call this development coordinating the different national tax systems if one wants to avoid the term harmonization, but it seems to be inevitable that the national tax systems must be 'harmonized' within a real Common Market.

Harmonization of national law is understood by the Treaty in the sense that the EU enacts directives that must be implemented by the national legislator into municipal law. Metaphorically spoken this can be called downstream harmonization, starting with the formulation of a common aim at the level of the Community and then moving down the national levels. In this sense the newly founded Association of European Tax Professors cannot contribute to the harmonization of taxes. Nevertheless, the statute of the Association declares as an object of the Association to contribute to the development of European tax law. This contribution will be in the nature of upstream harmonization. Universities are institutions which educate the next generation. A first step in developing coordinated tax systems within the European Union is therefore to develop a common language in taxation within Europe. Terms such as 'income' must have the same meaning or, failing that, the different notions of the meaning of the word must be recognized. However, this requires discussions among professors and the dissemination of the findings of such discussions. The Association of European Tax Professors therefore wishes to develop academic teaching programmes on European, international, domestic and comparative taxation. During the first meeting of European tax professors in the year 1998 at Osnabrück, the following resolution was agreed upon when discussing the teaching of tax law within European universities (CF. European Taxation 1999.)

- ¹1. Courses in tax law at law faculties should contain
- general tax law incl. procedure
 - direct taxes
 - indirect taxes

- international and European tax law
- 2. Countries in which the curriculum consists of numerous mandatory courses a course on the basic principles of taxation should also become mandatory.
- 3. A basic course of tax law in any university participating in the SOKRATES Exchange Programme should be accepted for credit, subject to two restrictions:
 - courses in financial law or public finance should not be regarded as equivalent to substantive tax law
 - access to specialised courses is conditional on having passed an examination for a basic course in domestic tax law'.

A prerequisite of teaching a common language is research on comparative tax questions. The Association also wants to contribute to the development of research programmes on European and comparative taxation.

Research and teaching are two sides of one coin and point to the strong academic background of the Association. Membership is open only to professors of tax law at a university in a European country. Having in mind different systems of organization within the European universities this means that the individual must hold the title of a professor or fulfil a comparable academic function. The decisive point is that the individual is regularly involved in the legal education at a university in Europe of the next generation of students irrespective of title.

The Association pursues its objectives by organizing annual congresses but it will also support meetings of a more regional character. The next congress will take place at Maastricht in June 2000. The Association has received further invitations by Lausanne, Dublin, Paris and Lisbon.

The Association hopes to be a framework within which the universities cooperate in developing undergraduate and postgraduate tax curricula. During the Maastricht meeting 2000 there will take place a presentation of the already existing postgraduate tax curricula and it will be one of the aims to discuss how students may participate in different courses on a modular basis.

The core of the scientific work of the Association is the Academic Committee of European Taxation. One member per state will be elected to form the Academic Committee. It prepares the scientific projects in deciding on the subjects of the annual congress, in stimulating the research projects or in passing resolutions to be presented to the institution of the European Union or parliaments, governments and tax authorities within the European countries. In Stockholm

Professor Kees van Raad, Reichsuniversiteit Leiden, was elected as chairman of the Academic Committee of European Taxation.

The management of the Association is entrusted to an Executive Board consisting of three members. These were elected in Stockholm: Professor Mössner, University of Osnabrück as chairman and Professor Sacchetto, University of Turin, as vice-chairman and Professor Bertil Wiman, Stockholm School of Economics, as treasurer. The chairman of the Academic Committee and the director of the International Bureau of Fiscal Documentation, Amsterdam, are *ex-officio* members of the Executive Board without voting rights.

The Association shall possess legal personality under Dutch law and will have its registered office in Amsterdam, hosted by the IBFD. The Executive Board wants to enlarge the current membership of 86 professors by inviting all other European tax professors to join the Association until the end of this year. The Association will then have more than 300 members and will be a real representation of the teachers and researchers of tax law within the European universities.

Now to the second question of why this Association not founded earlier. The foundation of the Association of European Tax Professors is not the first initiative to bring together professors of tax law in Europe to discuss tax questions of common interest. On the contrary, there have been a lot of initiatives through the years. Without hoping to cover all such initiatives, one should mention the congresses organized by Professor di Pietro at Bologna, the Academic Committee of European Taxation (ACET) with meetings in Cologne, Alicante and Stockholm, the EUCOTAX group, the Leiden-Osnabrück-Paris XII cooperation and many others. The roots of the new Association go back to IFA. Originally it was intended to create a network, gathering the names and the addresses of European professors of tax law. However, during the 1998 meeting in Osnabrück the idea was born to found the Association and it was decided that the 1999 meeting of the ACET in Stockholm should be the right place and the right moment to establish it. The reaction to this proposal was overwhelming. Numerous professors wrote that the foundation of such an association was the right idea at the right moment. Indeed, they felt it was overdue that the professors of tax law unite to become an important voice within the development of European tax law.