

Streams and abstracts**Stream 1: Fiscal Law, the Offshore System and State building****16/10****15:30-17:00****Ezgi Arik**

Power, Knowledge, and International Taxation: Uncovering the Tax Avoidance Discourses of the OECD and the UN

Abstract

This paper questions, How do the underlying assumptions and ideologies of the OECD and the UN regarding tax avoidance influence the international tax discourse? It deconstructs the discourses of the OECD and UN documents on tax avoidance to reveal the hidden dynamics and hierarchies. This paper follows the discourse analysis method used by Michel Foucault to understand the power-knowledge dynamics. The discourse analysis conducted on the documents of the OECD shows that the OECD primarily focuses on the revenue collection of countries. Nevertheless, it does not refer to the revenue distribution issues to the individuals or how international tax practices would affect the least privileged individuals in society. The state-centric approach of the OECD corresponds with the neoliberal institutionalist assumptions, and it overlooks the possible impacts of international tax practices on individuals. The discourse analysis of the UN documents shows a slight discrepancy between its discourse in international tax matters and the general discourse of the UN, focusing on protecting human rights, supporting sustainable development, and promoting justice. The analyzed documents show that the UN does not refer to human rights or fair distribution of benefits and focuses on economic rather than social and cultural development. Despite the limited reference to individual rights and freedoms, the UN still acknowledges the interests of other actors other than states, such as taxpayers. The discourse analysis shows that the UN follows liberal pluralist assumptions by focusing on developing countries' varying interests and characteristics in international tax matters. Nevertheless, the discourse of the UN also lacks more individual-oriented aspects of international tax matters. As a result of the analysis, this paper concludes that the OECD, as an already-existing power holder in international taxation, produces knowledge and later reconstitutes to the power of the OECD. This knowledge-power dynamic influences not only the discourse position of the UN but also the international tax discourse in general. Accordingly, the state-oriented perspective on the collection of revenues dominates the international tax discourse and overlooks the individual-oriented impacts of international tax practices.

Santtu Raitasuo

Theorizing tax avoidance - A critical legal perspective

Abstract

This article discusses how tax avoidance can be understood from the viewpoint of critical legal studies. Critical legal studies was a school of thought in American legal academia that flourished during the 1970s and 1980s. The approach emphasizes the indeterminate nature of legal argumentation and political ideology as an important determinant of legal interpretation. Moreover, the school of thought brought about novel way of doing legal scholarship that differed radically from the more established approach – the doctrinal study of law – which is still commonplace in tax scholarship. This article demonstrates how critical legal approach can be utilized in tax scholarship and especially how it enhances our understanding of tax avoidance. Instead of perceiving tax

avoidance as a regulatory failure, resulting from poorly drafted legislation, the article portrays tax avoidance as an interpretive outcome, which is a topic of continuous discursive contestation. It is argued that defining of some activity as tax avoidance is a legal outcome, that may be influenced by the interpreter's political ideology. The article also suggests how the critical legal approach may help adopting more effective policies to combat tax avoidance.

Olusegun Vincent

Impact of Institutions on Tax Evasion Perception: Institutional Theory Perspective

Abstract

This study examines the impact of institutions on tax compliance from the perspective of institutional theory. Institutional theory suggests that the structures, norms, and regulations established by institutions significantly influence individual and organizational behavior. By analyzing various institutional factors such as legal frameworks, enforcement mechanisms, and cultural norms, this research aims to understand how these elements contribute to tax compliance or evasion. The study utilises a cross-sectional research design with the aid of a questionnaire to capture the perceptions and experiences of taxpayers. Findings indicate that robust legal institutions, effective enforcement, and a culture of compliance foster higher levels of tax adherence. Conversely, weak institutions and perceived corruption correlate with increased tax evasion. The implications of this research highlight the need for policy reforms that strengthen institutional integrity and promote a culture of compliance to enhance tax compliance rates.

Andreas Økland

Foreign investment in the Dubai housing market, 2020-2024

Abstract

This note presents new evidence on the scale of foreign investment in the Dubai residential property market. Using new data comprising the ownership of a large share of the Dubai property market, we present updated estimates of foreign-owned real estate for the years 2020 and 2022.

Stream 2: The Border Line: Tax Law and the Global Division of Labour**17/10 09:00-10:30****Kolawole Omole****Quantifying the Impact of International Tax Reform Proposals by the Global South****Abstract**

The international tax policy architecture is changing at a very rapid pace in response to the digitalization of the economy as multinational enterprises are able to reach consumers without physical presence. In addition to that, tax rate differentials between jurisdictions as well as preferential regimes designed for achieving various economic policy objectives are drivers of Base Erosion and Profit Shifting (BEPS). Developing countries are the main losers on account of being disproportionately affected by BEPS and the imbalance in the allocation of taxing rights that undergirds the international tax system. The OECD and the United Nations Tax Committee (UNTC) in response to the fast-changing business models and international tax policy landscape, have introduced several guidance, policy proposals and model rules, to be implemented through changes to domestic laws or tax treaties. Some of these proposals, such as Article 12B, the Subject to Tax Rule, and others, have been spearheaded by developing countries. The South Centre has been one of the active supporters of developing countries in these negotiations. One of the approaches taken by the South Centre to promote the interests of developing countries in the negotiations has been to quantify the potential benefits of the policy proposals of the Global South. Such research and analysis played a major role in showing the concrete benefits that could accrue from these proposals and helped take them forward.

Once finalized, the proposals turn into policy options and have wide ranging revenue implications for developing countries. To help developing countries, particularly its Member States, make informed decisions on which option to choose, the South Centre has conducted extensive research, often in collaboration with other Global South institutions, on the quantitative impact of several international tax policy options.

This presentation highlights the experiences of the South Centre in carrying out quantitative impact analysis research on these two tracks: promoting the interests of developing countries during the negotiations and helping them make informed policy decisions on the final versions. The focus will be on the South Centre's research on Amount A of Pillar one, Article 12B of the UN Model Tax Convention, the subject-to-tax-rule (STTR), taxation of computer software under Article 12 of the UN Model and the Global Anti-Base Erosion (GLoBE) rule.

Luiza Leite de Queiroz**Comes with the territory: sovereignty and territorial jurisdiction in the realisation of transnational tax justice****Abstract**

The positivist ideal of oneness of (sovereign) territorial jurisdiction has long been scrutinised by scholars wishing to reconcile aspirational legal inklings with a more austere view of world politics. How far does it hold in practice? The very notion of statehood which international law is

overwhelmingly based on has undergone profound transformations since Jellinek's seminal work on the constitutive aspects of a state. Amidst the many challengers of the traditional paradigm of territorial jurisdiction, international taxation has long sat comfortably under the literature's radar. Oddly standing as neither a branch of public international law, nor a bifurcation of private international law, international taxation adopts a peculiar conception of tax jurisdiction based on economic nexus that is devoid of any real engagement with scholarly writings on the international law of jurisdiction. The consequences of extricating an economic facet of jurisdiction and its isolation from broader theories of statehood, are nothing short of seismic. Jurisdiction is, after all, as much an instrument in the distribution of competences among sovereigns as it is a threshold criterion for submission of a legal relationship to adjudicative power. This chapter looks at two ramifications of international taxation's jurisdictional singularity. The first concerns the disruption of legal accountability routes in instances of transnational wrongdoing that cannot be neatly traced back to any one particular state. Intimately connected to that, the second relates to what scholarship has termed 'governance without government', meaning the possibility of projection of governance power beyond the territorial borders of the state. Jointly considered, these quintessentially jurisdictional issues directly affect the task of challenging, through litigation, deep-seated rules of the international tax regime which result in structural imbalances in disfavour of developing states and in the perpetuation of transnational economic injustices.

Åsa Hansson

Labor taxation without borders: Is it necessary and desirable to coordinate labor taxation internationally?

Abstract

Technical development, including digitalization, artificial intelligence, automation, and machine learning, can challenge the current tax system and consequently, the means to finance public sector activities. Digitalization weakens the link between economic activity and physical presence and increases taxpayer mobility. It is now possible to separate where we consume, invest, receive education, and work from where we live and are typically taxed. Thanks to technological development, many can work-from-home, or work-from-anywhere, partly, or entirely. This will increase welfare but may impact countries' ability to conduct independent tax policies.

Maurits van de Sande

The residence based taxation bias: an analysis from a historical and economic perspective

Abstract

For many years, international tax law has been perceived as being based on residence (corporate) income taxation, while limiting the taxing rights of residence States by allowing source States to tax certain income items. However, the residence-source dichotomy has been questioned as the OECD has suggested destination-based taxation under Pillar 1, a minimum corporate income tax under Pillar 2 of BEPS 2.0, and alternative base allocation (e.g. formulary apportionment initiatives).

Stream 3: The Rules of the Game: constitutional, technocratic and methodological issues in critical tax law research**17/10****13:30-15:00****Teresa Simon-Almendal**

Is the Rule of Law in a State of Flux (in Sweden)?

Abstract

The background to this paper is the immense number of regulations recently promulgated at several levels, at least for the past 30 years, which are overwhelming the area of Swedish taxation law. Sweden is globally known for its high taxes and welfare state, the latter constructed and maintained with taxes. During the latest decades, though, with Sweden joining the EU in 1995 and due to digitalization, globalization, technological development and increased cross-border mobility, there has been significant pressure on the Swedish tax system. The maintenance of the welfare-system is particularly tax dependent, while legal and the societal developments, such as globalization, have led to new methods to avoid or minimize taxes. One of the greatest contemporary challenges is to secure the national tax base and to counteract far-reaching international tax planning. Additionally, economic crises, Brexit, climate threats, the pandemic and the Russian aggression war on Ukraine are putting the welfare state under pressure and have placed even more stress on the situation. In order to meet contemporary challenges, the number of regulations of various kind have been increasing, much due to initiatives taken by the EU and the OECD. The EU “machinery” and the OECD are taking over more and more of the law-making in different areas, but most specifically as addressed here in the areas of taxation and financial regulation. It is not an overstatement to say that at least the area of taxation is being flooded with new rules and directives.

Strong and powerful government authorities, such as the Tax Agency and the Financial Supervisory Authority, do not limit themselves with only guiding the taxpayers through soft law mechanisms on how to understand and apply the law, but also, at their own initiative, submit proposals for new legislation. In addition, by law these agencies have the mandate to impose fees and other economic sanctions on those who violate the law.

These developments can be questioned from several different perspectives. On one hand, they raise questions about how to uphold the principles of equal treatment and predictability, when the legal material appears to be almost boundless and unmanageable. Other questions in the field of legal certainty and the rule of law concern how the legitimacy of the judicial system can be maintained and proportionality in the application of the law ensured, when sometimes not only one, but several sanctions can be applied for the same act of non-compliance. On the other hand, these developments pose questions of constitutional character. Powerful authorities, such as the Swedish Tax Agency, are growing and getting stronger at the expense of the legislature and courts. An interesting question therefore, is whether this development is compatible with the principle of the separation of powers.

The following examines whether the rule of law, from a tax law perspective, in Sweden is in a state of change.

Linda Sydänmaanlakka

Tax Expertise and the Separation of Powers

Abstract

This article will focus on the role of experts in tax law-making and Montesquieu's model on the separation of powers from the perspective of a modern rule of law concept. The article will carefully scrutinize the lifecycle of a piece of regulation arising from the OECD's recommendations, going through EU legislature, and ultimately imposed as national laws, regulations and administrative guidelines in Finland.

Richard Croneberg

To Measure Is (Only) to Know? A Critical Assessment of the Swedish Consumer Price Index in the Wake of the Cost of Living Crisis

Abstract

In recent years, the spike in inflation has been at the centre of both monetary and fiscal policy at home and abroad, where the ambition to counteract rising prices has resulted in higher interest rates and tighter government spending. At the same time, the measures introduced to counteract the rise in prices in the economy are based on economic metrics, which in turn have been determined on discretionary assessments, where expert authorities tries to measure and predict consumption through models that could very well be put into question. Based on a thorough review of the decision-making process determining the Swedish consumer price index, this intervention explores how the role and influence of expert authorities sets the boundaries for economic decisions making.

Love Rönnelid

Which research questions yield critical thinking in legal scholarship?

Abstract

Different types of research questions tend to create very different types of legal scholarship. This presentation highlights questions that researchers can ask, when writing about legal materials, that are likely to trigger critical thinking. For example, rather than asking what the role of an area of law (such as tax law) is, a more fruitful scholarly question is how people with power in the field perceive the role of law. Other approaches include historicization, sensitivity to distribution between groups, and how dominant readings of an area of law are sustained. As the law seems to have a particular role in depoliticizing economic questions, legal scholarship has the potential to help explain the effects of interpretative choices made by lawyers.

Stream 4: Caring and sharing: Gender equality, distributive justice and climate issues in tax law

17/10

15:30-17:00

Matti Ylönen

Why did (most) Nordic countries abolish their wealth taxes?

Abstract

Wealth taxes are an old idea whose has come, as new data on the ever-growing global concentration of wealth have pointed to the urgent need to tackle wealth disparities. But why have countries abolished their wealth taxes in the first place? Traditionally seen as bastions of progressive taxation and small wealth inequalities, Nordic countries provide an ideal multiple case study setting for probing answers to this question. Accordingly, the present article analyzes the arguments that led to the abolishment of wealth taxes in Denmark (1997), Finland (2005), and Sweden (2006). The debates from the 1990s, 2000s, and 2020s provide a fascinating lens on the ebbs and flows of international debates on desirable tax systems, as they diffuse to national policy discussions. They also underline the importance of supporting pluralist tax research communities to avoid the pitfalls of groupthink in policy debates on wealth taxation.

Åsa Gunnarsson

Sustainable tax reforms on gender equality

Abstract

National tax laws and international tax policies have, despite impressive growth performances in many economies, worked against economic gender equality. The broad concept of tax fairness has become equivalent to what is good for economic growth and detached from social justice, leading to increasing income gaps and poverty. As a result, many aspects of taxation have indirectly had a substantial effect on gender-related socio-economic inequalities even though most domestic tax laws being gender neutral. The ignorance to consider gender inequalities, when designing tax laws, is obviously in conflict with several legal obligations and policies, on national, regional and international levels. In my paper an overview on the European context regarding this development will be presented. The paper will also present novel insights on how Swedish tax reforms have moved from an empowering tax ideology in the 1970s, to decades of tax policies that have left women behind. Based on legal and economic studies, the text will provide insights on the gender bias in tax principles and practises and a critical analyse on how a patchwork of tax reforms have shift the tax burden from men to women. A discussion on how to turn tax policies to serve the aim of sustainable tax reforms, that can raise large revenues in ways that serve the well-being of citizens in a fair and efficient way, finishes the paper.

Abhishek Tripathy

Economic aspects of International Taxation: Understanding Environmental Taxes & Evaluating their Contemporary Relevance to Economies

Abstract

Tax policy has been widely considered to be 'both the cause and a symptom of economic changes' by leading scholars. Today, climate change has configured itself as an underlying constant of all aspects

of life as we know. The aim of the presentation is to understand environmental taxes in order to demonstrate how taxation is relevant to a global discourse on the state of environment.

Peter Dietsch

A fairer and more effective carbon tax

Abstract

Carbon taxes are one of the main arrows in the quiver of climate mitigation policy. To live up to their promise, carbon taxes need to do better at meeting a number of challenges they face in practice. This article identifies three such challenges and defends a progressive carbon tax as best positioned to meet them. To make carbon taxes both fair and effective, states should design carbon taxes in a similar way to income taxes. Rather than having everyone pay the same rate, the individual carbon tax rate should increase with the greenhouse gases a person emits through their consumption.