



taxation is to be fair. Such legislation can be put into effect by every member of the public, including the weakest party in the taxation process. Such legislation may also improve the relationship between the tax department and the taxpayer, help reduce tax avoidance and tax evasion and help keep the cost of levying taxes under control.

A major cause of vagueness and complexity rather than clarity and understandability is that legislation, especially tax legislation, has many dimensions. All kinds of factors have their own significance, which help determine the nature and the structure of tax legislation. Political factors in particular receive most attention, not the aspects that must lead to clear and understandable tax legislation. Vague formulations may be chosen in tax legislation because it is politically convenient; such formulations are not interpreted until after the legislation has been enacted.

This one-sided focus on the political dimension of tax legislation is due to the legislator being an integral part of society rather than at some remove from it. This means that all the forces at work in society, from the individual to the collective level, bring their influence to bear on the politicians. Politicians subsequently make demands on those who are involved in the business of legislation. Above all, the legislation has to be politically 'feasible'. Conflicting interests, differing opinions on the common good, fight for priority when legislation, including tax legislation, is to be enacted. It is then no longer a simple matter of sharing the tax burden, income and social welfare but also one of achieving the other goals for which tax legislation is created, for example as an economic policy tool. As a consequence, the resultant legislation demands so much expertise that it can no longer be implemented by every member of the public. In brief, more attention has to be paid to the fact that tax legislation is an area of law and as such a source of equality before the law and legal certainty for the public.

If it is to be clear and understandable, no compromises can be made with the legal phrasing of tax legislation. It has to be written in simple and logical terms that are accessible to the weakest party in the taxation process, not only to those with highly specialised legal training. Sufficient neutral attention should therefore be paid to the independence of the legislative power - the technique, the business, of legislation - and to the related directions and guidelines. This corresponds to the three powers of the state developed by Montesquieu, which are in turn associated with the principle of legality. The legislative, judicial and executive powers must be separated from each other and exercised by different bodies.

In Chapter 3, I have looked at the contribution made to fairness in taxation by the government in its role as executive power, the tax department and the tax courts. It must, after all, be the legislator's intention to give actual substance to fairness in taxation and support it with the legal protection system for taxation. In this chapter I have also considered the question of whether the taxpayer actually does have recourse to the legal protection provided by the State Taxes Act (*Algemene Wet inzake Rijksbelastingen, AWR*) and the Administrative Law Act (*Algemene Wet Bestuursrecht, AWB*): the right to lodge objections and appeals. Opinions from both the legal profession and the literature suggest that uncertainty about there being only one correct interpretation of the