



law, the costs of a law suit, the lack of expertise in tax matters, the length of time needed for a law suit and the desire not to upset a good relationship with the tax authorities may force taxpayers into accepting a tax compromise in order to resolve a dispute which may relate to the establishment of the legal and/or the factual elements of the tax liability. The compromise must always be a voluntary one and all parties must be able to recognise their own sense of fairness in it.

When an objection is lodged, the taxpayer is often dependent on the inspector's establishment and interpretation of the law. This is also in accordance with the opinion that the executive has prime responsibility for the establishment of law and the interpretation of the incomplete and vague terms used in tax legislation. To be fair, this process may not compromise the taxpayer's sense of justice. The inspector must be aware that he bears a profound responsibility for fair taxation, particularly with regard to those who are less able, if not completely unable, to defend their own interests in the field of taxation.

The inspector should inform taxpayers in an objective and independent manner about the applicable law and also about the policy pursued, relevant ministerial decrees and existing case law. In part, this is a consequence of the material and formal principles of proper government. Both types of principle are concerned with the legitimate interests of taxpayers, not only because the tax department has considerable freedom of policy and the taxpayer, in a certain sense, is in a subordinate position to the tax department, but also because the government takes the interests of the individual seriously. The formal principles relate, among other things, to the concept of due care and the concept of motivation. These concepts indicate that account must be taken of the taxpayer's subordinate position at *all* moments in the taxation process, including the preparatory decision-making phase.

It can be asked whether the inspector has enough time and opportunity to perform all the work necessary for the establishment of law, particularly since he is also expected to keep the cost of levying taxes to a minimum. This places him in the middle of a conflict of interests and duties, namely those of the taxpayer and those of the government.

The tax courts contribute to fairness in taxation because they are responsible for establishing, interpreting and applying the law. They must therefore give shape to the changing opinions on fairness in taxation. They are also expected to supervise the action of government, to give concrete substance to the standards imposed on government action, and also, in a certain sense, to provide compensation for the inequality between the parties in a law suit. The inequality of the parties must not be allowed to affect the outcome of a law suit. The opinions from the legal profession and literature indicate that the taxpayer is usually at some disadvantage with regard to the facts, the law and the law suit itself.

Tax courts therefore play a more active role than civil courts. They are exposed to a conflict of duty and interest when they must act independently and impartially. Furthermore, they are at risk of becoming overburdened owing to the time and effort

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