



prevent such mistakes having serious consequences.

Consideration has to be paid to the causes of unintentional mistakes and, particularly, to the requirement that taxes are fair. In the longer term, such consideration might help improve the efficiency and effectiveness of taxation since it may encourage greater cooperation from taxpayers. If taxpayers perceive taxation as being fair, for example, their conscience and sense of justice can be pricked into helping fight fraud. This would cut the cost of other methods of preventing fraud.

In its day-to-day practice, the tax department is often engaged in answering simple questions. In addition, mistakes sometimes arise when taxpayers attempt to fulfil their tax and administrative obligations. The two methods of taxation, by assessment and by return, make high demands on the taxpayers' knowledge of taxation and other skills. The far-reaching bookkeeping and accounting obligations are particularly onerous for taxpayers. A tax inspection confronts the taxpayers with the problems and uncertainties of vague and complicated tax legislation and with the question of whether they have made mistakes. Those uncertainties are all the more worrying because taxpayers know that severe penalties are imposed if the tax remittance is too low. Moreover, taxpayers may be held liable for other taxpayers' tax debts.

Dialogue with the tax department is exceedingly important to taxpayers. They benefit from such communication increasing their insight into the fairness of taxation, the certainty of taxation, the causes of mistakes and the way in which they (the taxpayers) can be helped. The atmosphere around taxation has to be polarised; where possible contradictions and suspicion have to be replaced by consultation and cooperation. Vague and complicated tax legislation is a source of uncertainty, problem, conflict, tension and frustration for all parties, but particularly for taxpayers. Such legislation therefore exacerbates the perception among taxpayers that taxes are unfair.

It is important that the legislator does something with the information produced by the dialogue between the tax department and the taxpayer. Scheltema's alternative model of government is an excellent means of bringing the adverse consequences of vague and complicated tax legislation to the attention of those who are responsible for the tax system: the government, parliament and politicians. This, after all, is the point of the principle of legality and it is essential if fairness in taxation is to be given real substance.

Conclusion

In a parliamentary democracy, the formal legislator is expected to create rules of law that provide for fairness in taxation. It seems, however, that the legislator is not capable of meeting this expectation. If he were, tax legislation would be known, legally certain and enforceable instead of being vague and complicated as it is at present. Both the literature and legal opinion testify to the need and importance of understandable legislation. Legal opinion in particular suggests that complicated tax legislation couched in vague terms creates problems in practice.