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Editorial

2000 – is the end at hand?

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For tax developments in the European Union this is of course a purely rhetorical question. For income tax and excises the more appropriate question should be: is the beginning at hand?

It has been more than seven years since this Journal was founded. During this whole period hundreds of tax laws were approved in the Member States. The European Union however only managed to introduce a temporary VAT regime for cross-border transactions and this was the consequence of a decision taken at a much earlier date. During that long period there has been a complete stalemate in the legislative work of the Commission and the Council in the area of taxation. If one looks at the legislative work in the form of directives and regulations one would think that almost nothing had happened. The only new initiative was the draft of a Code of Conduct for the elimination of so-called 'harmful tax competition'. That is not a reproach to the Commission, which during this period has taken many initiatives and submitted many proposals. It rather reflects the cramped attitude of fear by the governments of the Member States of losing one ounce of their fiscal sovereignty as the last bastion of their national sovereignty.

In the meantime the world has not been at a standstill. The European Court of Justice has in a series of important cases established the principle of non-discrimination on the basis of nationality and residence as a basic rule for the national tax systems of the Member States. Trading in financial assets and more recently also trading in goods has been technically revolutionized, so that traditional concepts such as income from capital, capital gains and permanent establishments are becoming rapidly obsolete. Services can be provided worldwide and the tax implications of their supply have become a hot topic in the World Trade Organization. As a result Member States have been losing their grip on taxation of income from capital. They are increasingly confronted with fair or unfair competition in the area of corporate income tax and excises and they are engaged in a competitive downward spiral of reducing personal income tax and social security charges on labour. In spite of all these signals the national governments of the Member States have been unwilling to come up with solutions that would break the logjam for a definitive system of VAT and excises, or with progress on the draft directives on interest and royalties.

The picture would be very bleak indeed, were it not that the advent of the euro has brought a new awareness among national politicians that some urgent changes are needed. The establishment of a European Central Bank has made politicians aware that a countervailing political power is needed to supplement with decisions on economic policy the monetary decisions of the Central Bank. Critics have pointed out the fragility of a construction in which a Central Bank decides on its own without being embedded in a political framework. That is why immediately after the introduction of the euro there has been talk of a 'European economic government'. Such a concept necessarily implies decision-making power on taxation. Also the new minister of finance of the German federal republic has clearly stated that he wants to march forward to what he unabashedly calls the road of tax harmonization. To any attentive observer it must have become clear that the political climate has radically changed and that now the time has come to end the stalemate and to move forward decisively in the area of taxation. The question is how and in what direction.

From the outset it should be pointed out that the march forward in taxation has two distinct objectives: one that is predominantly economic, the other that is more political.

The economic tax objectives are in the traditional line of improving the operation of the single market: eliminating unfair competition, removing national barriers to trade and eliminating all discrimination on the basis of nationality or residence so that economic operators can move throughout the European Union as in their own country. This is a tall order already. It requires (1) the establishment of a final VAT system with taxation in accordance with the rules of the country of origin, (2) a substantial realignment of excises on tobacco, alcohol and oil products and abolition of all other excises, (3) approval of the interest royalty and the savings directive and the implementation of the Code of Conduct on unfair tax competition, (4) and the approval of a minimum standard framework (tax base and tax rate) for the corporate income tax, and (5) coordination of the tax policy with respect to third countries (international tax treaties and tax problems in international trade at the WTO).

It is clear however that this programme may facilitate the operation of the single market, but it does nothing to create a countervailing decision-making power for tax policy against the ECB. The latter is a political issue of completely different dimensions. The question is whether you can expect to have an effective economic government at European level to steer an economy almost the size of that of the USA and with 350 million consumers, by means of a public administration smaller than the city administration of Brussels, under a government that has to decide by qualified majority or unanimous consent. This question has been prompted by the declarations of several governments of Member States, after the introduction of the euro, to launch a European policy on full employment, which implies an effective economic policy at the European level. The question also has been fuelled by the growing criticism of a lack of social awareness in the European Union and over-emphasis on business problems. Indeed in spite of the fact that statistical graphs and tables show that tax pressure on income from labour has increased and that the tax burden on income from capital has decreased, current tax discussion in the European Union centres on abolition of withholding tax on interest and royalties and on increases in indirect environmental levies or green taxes. Finally there is the intention to extend the European Union to new members in eastern Europe which requires new ways to finance the Union. All these problems raise the inevitable question of institutional reform.

The transitional period for the introduction of the euro provides the European Union with a unique window of opportunity to put its institutional house in order. Between now and the introduction of euro banknotes by 2001 the Union needs to make the essential institutional changes which should enable it to operate an economic government and hence to conduct an effective European tax policy. This is a short period of time, but it is feasible provided minds are concentrated as they are today and provided there is a vision for the future as there was in the Delors commission at the time of the abolition of all borders in 1992. It has become clear that individual Member States, not even the German Federal Republic, are in no position to weather international economic and political crises alone. Therefore it is vital for the position of each of the alone Member States, to galvanize the European effort into a new institutional framework which would enable the Union to operate an economic government and to accommodate new Member States in the European decision-making process.

For taxation that would mean a revision of the Treaty, setting out new rules for decision-making with respect to indirect and direct taxes and tax treaties. These rules would need to respect the principle of subsidiarity. However they also would need to respect the minimal conditions for the conduct of an effective economic and tax policy at the European level. They would need to spell out on what subjects of direct and indirect taxation the Union would obtain the power to set the rules (mainly the minimal framework of tax rates and tax base) and for VAT and excises, the core of the final tax system. They also would need to spell out a new decision-making procedure in taxation getting rid of the unanimity rule and making room for decisions by democratically elected representatives of the European electorate.

Only under these conditions can we expect the European Economic Union to survive. Member States will regain their grip on economic and social policy only when they agree to transfer a minimal framework of that power to the European Union, so that less power for the individual indeed begets more collective power for the Member States at the European level. If we cannot achieve this goal by the time of the introduction of the euro bank notes the end of Europe will indeed be at hand.