



Greetings from the Executive and Board of the IATJ.

Attached hereto is a paper on exploitation of international information in a national taxation matter of private persons by Dr. Petri Saukko, of the Administrative Court of Kuopio, Finland, which I have no doubt will be of interest to all.

I also want to take this opportunity to again invite you to the 6th Assembly of the IATJ which is presently in the planning stages and is going to be held in Lucerne, Switzerland, on September 4 and 5, 2015, just after the IFA Congress in Basel in the days preceding. Registration forms for the conference as well as hotel particulars, et cetera, are available on our website and we invite you to show your interest as soon as possible by booking your hotel registrations at one of the many hotels listed as well as registering as soon as possible. I am sure the program which has yet to be finalized will certainly pique your interest. Attached is a list of the preliminary schedule and hotel suggestions. The Organizing Committee members are Judge Michael Beusch of Switzerland, Judge Wim Wijnen of the Netherlands, Judge Friederike Grube from Germany, Mr. Philippe Martin of France, Dr. Manuel Hallivis-Pelayo of Mexico and Justice Randall Boccock from the Tax Court of Canada. The Committee is in the midst of the planning for the conference and are always looking for panellists or presenters. If you find any of these topics of such interest to you that you wish to be a planner or presenter, please contact any of the committee members to express your interest. Their individual contact particulars are as follows:

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The Principal of Taxpayer's Equal Treatment was breached in Finland in a Matter concerning Exploitation of International Tax Information

Introductory

This article aims to introduce to the Finnish Second Deputy-Ombudsman's opinion in a case which concerned access and exploitation of international information in a national taxation matter of private persons during 2008-2012.

The opinions of the Second Deputy-Ombudsman specifically were based on evaluation of the authorities' fulfillment of their duties as regards equal treatment of taxpayers and imposing of administrative sanctions. The Second Deputy-Ombudsman also evaluated promptness of authorities' actions.

Finnish Parliamentary Oversight

The Finnish Parliamentary Ombudsman exercises oversight to ensure that public authorities and officials observe the law and fulfill their duties in the discharge of their functions. In addition to authorities and officials, the scope of oversight includes also other parties performing public functions. The aim is to ensure good administration and the observance of constitutional and human rights. Anyone who thinks a subject of Ombudsman's oversight has acted unlawfully or neglected a duty in the performance of their task may file a complaint to the Ombudsman. The Ombudsman may also, on his or her own initiative, take up a matter within his or her remit.

If, in a matter within his or her remit, the Ombudsman concludes that a subject has acted unlawfully or neglected a duty, but considers that a criminal charge or disciplinary proceedings are nonetheless unwarranted in this case, the Ombudsman may issue a reprimand to the subject for future guidance. If necessary, the Ombudsman may express to the subject his or her opinion concerning what constitutes proper observance of the law, or draw the attention of the subject to the requirements of good administration or to considerations of fundamental and human rights. In a matter within the Ombudsman's remit, he or she may issue a recommendation to the competent authority that an error be redressed or a shortcoming rectified. In the performance his or her duties, the Ombudsman may draw the attention of the Government or another body responsible for legislative drafting to defects of legislation or official regulations, as well as make recommendations concerning the development of these and the elimination of the defects.

Information the Finnish Tax Administration received regarding investments made in Liechtenstein by Finnish private persons

In 2008 the Finnish tax authorities as well as tax authorities in many other countries received information about clients of LGT bank located in Liechtenstein. A former employee of the LGT bank had copied information which the person in question

apparently sold to German intelligence agency and the said information later on travelled somehow to other countries as well.

The information revealed Finnish private persons that had been utilizing a Liechtensteinian foundation. The amount of invested funds varied from few million euros to over 10 million euros. The funds were invested in international securities market (e.g. in shares and bonds etc.). The data Finland received included information also on more complex arrangements aiming to hide the origin funds invested. In some cases funds were invested in Liechtenstein via Luxembourg by companies established in British Virgin Islands or Panama. These companies were dissolved right after the funds were transferred.

Measures of the Finnish Tax Administration

It took over 18 months before Finnish tax authorities took measures in this matter after tax administration had received information regarding the case. During the said period of time the tax authorities negotiated and considered the matter internally. One question was whether tax administration would be entitled to utilize the information in question. The tax administration decided to wait for court's decision before it took measures¹. After 18 months first tax audit was being performed and bank account information was being gathered.

Finnish media reported in 2013 that due to the actions of tax administration the pre-trial investigation of Finland's biggest tax evasion case (the total amount of investments was 50-60 million euros) was stopped. Tax administration had confirmed to the media that the cases will not be subject to pre-trial investigation and thus the Finnish clients of LGT bank escaped criminal charges. The Finnish police would have wanted to start pre-trial investigations but the tardiness of tax administration made it impossible.

The said news led the Second Deputy-Ombudsman to investigate the actions of tax administration.

Clarification provided to the Ombudsman concerning actions of the persons liable to tax and the penalties imposed by the Finnish Tax Administration

The persons involved co-operated willingly after being contacted by the tax authorities. Almost everyone revealed all necessary information for taxation purposes and paid taxes based on factual profits earned. Only in few cases the taxation was performed based on evaluation because the person liable to tax did not co-operate. In addition to the tax itself, tax authorities imposed (punitive) tax increase based on income not revealed on tax return. Based on tax authorities praxis the amount of tax increase usually is between 3-5

¹A Finnish administrative Court decided that the information regarding investments in LGT bank may be utilized. However, the decision was appealed and the case is currently being tried at the Supreme Administrative Court.

% of the income added. However, as regards investments made in Liechtenstein the amount of tax increase was in some cases only few hundred euros or even less.

Ombudsman's opinion

The Second Deputy-Ombudsman concluded that the amount of tax increase imposed was smaller than normally even if based on the special circumstances (e.g. orderliness of tax evasion) at hand the amount of tax increase should not have been smaller than normally.

The Second Deputy-Ombudsman noticed that during the years 2008-2012 the amount of offenses tax authorities reported to the police had risen every year. Nevertheless, the tax authorities did not make these cases available for court's evaluation as tax fraud or aggravated tax fraud – only one case was submitted to police.

The Second Deputy-Ombudsman concluded that there were no justified reasons for tax authorities' conduct which resulted that taxpayers were not being treated equally.

The Second Deputy-Ombudsman reprimanded tax administration for unjustified tardiness in taking measures when tax administration first received information regarding LGT bank's Finnish clients, for not treating taxpayers equally when the amount of tax increase imposed was lower than usual and for not reporting the cases to the police.

The Second Deputy-Ombudsman, however, did not find it necessary that the matter would be handled over to the evaluation of police. Thus, the officials of Tax Administration were not prosecuted.

The Tax Administration's reaction to the Ombudsman's opinion

The Finnish tax administration has informed that they take the reprimands seriously and will act accordingly in the future.

Petri Saukko
Judge, Administrative Court of Eastern Finland
Doctor of Laws

Lucerne, Switzerland 2015

The IATJ 6th Assembly will be held in Lucerne, Switzerland on September 4 and 5, 2015 at the University of Lucerne, Switzerland:

The Assembly Agenda is now available; the timetable schedule is as follows:

September 4, 2015

- 8:00 a.m. to 9:00 a.m. – Registration
- 8:55 a.m. to 9:15 – IATJ Business Meeting
- 9:15 a.m. to 12:15 p.m. – Substantive Issues
- 12:15 p.m. to 1:30 p.m. – Lunch
- 1:30 p.m. to 4:45 p.m. – Substantive Issues
- 5:45 p.m. to 7:00 – Cocktail Reception – Federal Supreme Court
- 7:30 p.m. to 9:00 p.m. – Cocktail Reception hosted by the Mayor of the City of Lucerne, Town Hall

September 5, 2015

- 8:30 a.m. to 12:00 noon – Substantive Issues
- 12:00 p.m. to 1:30 p.m. – Lunch
- 1:30 p.m. to 3:30 p.m. – Substantive Issues
- 3:30 p.m. to 4:00 p.m. – IATJ Business Meeting (cont'd)
- 6:00 p.m. to 9:00 p.m. - Closing Dinner

The Assembly Registration Fee is \$250.00 USD per attendee. Attendees must be Tax Judges which as per the IATJ Statutes includes Courts, Tribunals or Administrative bodies, judges or retired judges which or who irrespective of their official title, are or were, nevertheless empowered to adjudicate in tax disputes.

[Note: Registration Fee is for the 6th Assembly Conference only and does not include the Closing Dinner on September 5, 2015. The fee for the Closing Dinner on September 5, 2015 is approximately 50 Swiss Francs per person. Participants will be responsible for payment of their dinner and that of their guest, which we would ask participants provide at the morning registration on September 4, 2015]

Registration for the conference is a two step procedure:

1. submission of registration form with payment; and
2. the hotel reservation.

Hotel reservations must be made directly with the hotel in order that you may be guaranteed a room at the best rate available at the time. It is strongly recommended that you register as soon as possible to ensure that you obtain a room as rooms are limited in availability.

A list of recommended hotels follows.

IATJ 6th Assembly Conference
September 4 - 5, 2015
Hotel Information

We have blocked a limited number of rooms at the Radisson, Waldstätterhof and IBIS Hotels. Contact particulars for the hotels are as follows:

Radisson Blu Hotel, Lucerne
Lakefront Centre, Inselquai 12
6005 Lucerne
Switzerland
Tel: +41 41 369 9000
Fax: +41 41 369 9001
Email: info.lucerne@radissonblu.com
Website: <http://www.radissonblu.com/hotel-lucerne>

Hotel Waldstätterhof
Zentralstrasse 4
CH-6003 Luzern
Tel: +41 (0)41 227 12 71
Fax: +41 (0)41 227 12 72
E-Mail: info@hotel-waldstaetterhof.ch
Website: <http://www.hotel-waldstaetterhof.ch/englisch/hotel.html>

IBIS
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Website: <http://www.ibis.com/gb/hotel-8549-ibis-styles-luzern-city/index.shtml>