



Newsletter n. 1/2016

### **Fair taxation requires an effort by every country.**

Prof. De Mita's article published in *Il Sole 24 ore* on 19 January 2016 with the title: "*Nuovo fisco? Tasse giuste, collaborazione vera*" (New taxation? Fair taxes, true collaboration) solicits some remarks.

It is soon apparent that the adjective "sustainable", referred to rates and taxes, is unquestionably repeated four times.

The issue of *sustainability*, the excess of taxation, is not limited to Italy; in a world become global, this issue has always involved all countries. Unsustainable taxation was one of the main causes of the French revolution in 1789.

*"If you impose a forced, exorbitant and disruptive taxation system – Mirabeau states clearly in his well-known "Theorie de l'impôt" in 1760 – you will cause violence, allow the violation of freedom, damage to property and injustice and you will breach the ties and consensus at the basis of society and sovereignty".*

*"What is required is a unitary vision, one which nobody talks about", as De Mita rightly affirms; however, what is required today is rather "a worldwide vision".*

Fair taxation issues have worldwide interest, equal to other general issues (pollution, religious tolerance, the right to asylum, the right to life). A low-taxation country can attract huge amounts of capital, taking them away from other countries.

Kant himself in his "*Perpetual Peace*" (1795) predicts the advent of a Cosmopolitan Right whose target is to build Peace through trade among countries (the same basic principles of the "Schuman Declaration" of 1950 and of the EEC). Today global trade is strictly dependent on the differing taxation systems in individual countries (or territories or small islands).

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Taxation issues in our Country will be hard to resolve as long as such large discrepancies exist among the tax rates of the different tax systems and as long as taxes and all additional levies, contributions, etc., limit the right of property to an unsustainable extent.

However, this is also a cause for tremendous discrimination.

While large companies are able more than anyone else to find international escape routes, individuals and small companies are generally more locally rooted.

The examples of multinationals such as Google and Apple, which can reduce their taxation to almost zero through trade arrangements with Ireland, Holland and the Bermudas, speak for themselves. Those who can, will always try to be taxed where tax rates are lower.

Possible solutions.

Similarly to other worldwide interest issues, fair income taxation must become an urgent global problem. The latest BEPS (*Base Erosion and Profit Shifting*) recommendations, which the G20 and OCSE took part in, are a further stopgap measure which brings about little relief to the fair taxation problem worldwide.

As often happens, the subject-matter of these measures is the «effect», not the «primary cause», of tax evasion (i.e. the existence of significant discrepancies in tax rates from one country to another).

On a domestic level, the total taxation imposed on an individual ensuring both the fiscal interest and the right of property, must be that which is strictly necessary (as stated by Vanoni). The need for state measures was dealt with even earlier by Mirabeau in France (“*Sur l’éducation publique*”, 1791) and Wilhelm Von Humboldt in Germany (“*On the limits of State Actions*”, 1792).

In line with the EU principle of proportionality, the lawmaker must ask himself whether the rules on tax rates are both sustainable and necessary to achieve the purpose of covering public expenditure.



A tax regulation which must (“*the Republic has the task*”) achieve the “*full development of the human person*” (art. 3, second paragraph of the Italian Constitution) must also ensure that capital income, labour income and business income are taxed fairly with a fair differentiation.

Moreover, as taxation is strictly connected with expenditure (art. 53, first par. of the Italian Constitution), then it cannot be ignored that expenditure must be monitored in order to reduce it to the extent to which is strictly necessary.

“*It is indispensable for a Nation to avail itself of revenues which must be proportional to the required expenditure*”- affirmed the Swiss jurist Emer de Vattel in his “*Law of nations*” in 1758.

Finally, the sustainability of rates and taxes is undoubtedly an urgent problem in our Country, requiring more political debate on the relationship between sustainable taxation and the need for expenditure, but also more attention worldwide in order to limit easy capital transfers. Otherwise, we will transmit an atavistic “*contra personam*” law to the future generations: the strongest and the shrewdest overpower the weakest and the least capable.

Giovanni Moschetti