A family of big brother that do not talk each other

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Looking at income tax as personal tax (...)
the global concept is vastly superior (to the scheduler view).
R.A MUSGRAVE, 1969

Thus I suspect that tax structures will adapt slowly
and in a subtle way to the pressures of an integrating world economy.
J. SLEMROD in TANZI , 1995

Abstract

Professor Slemrod's IFS annual lecture (2006) concerning recent fiscal development in the U.S. is an interesting, thoughtful piece of high level taxation theory. However, I believe a couple of remarks ought to be made here. One is that the lecture sounded somewhat "American" to the ears of a continental European tax scholar. The U.S. Supreme Court is increasingly committed towards defending individuals' privacy rights, unlike its Europe counterparts. Some Buchanan's wind blows all around. Furthermore, it is difficult to imagine that tax administrations, which in many countries are rather poor at performing the simplest everyday tasks, could be transformed into well-organised, efficiently run, Big Brother-like organisations. Professor Slemrod expects Oceania to be with us with a decade or two. However, in the long run, globalisation will constrain the modelling of tax systems to a far greater degree than it already does. Several forces are going to shape tax designs consisting of simple, barely progressive taxes, largely applied in a shedular way in the source countries, ,while global income tax will be abandoned. all together. There is going to be an increase in the proportion of taxes based on the benefit principle. The restoration of the residence principle, and the rebuilding of a global, personalised income tax, could result from a rapid rise in the sharing of information among countries concerning revenue earned and taxes paid in different countries by the same tax payers. Back in 1999, Tanzi and Zee had already warned us that a country providing tax information on non-resident taxpayers would become a less attractive option in a world of increasing tax competition. Tanzi and Zee also produced a long list of factors which may make information-sharing ineffective. Similar conclusions were recently drawn by Keen and Ligthart (2006).

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Professor Slemrod's IFS annual lecture (2006) concerning recent fiscal development in the U.S. is an interesting, thoughtful piece of high level taxation theory. However, I believe a couple of remarks ought to be made here. One is that the lecture sounded somewhat "American" to the ears of a continental European tax scholar. The U.S. Supreme Court is increasingly committed towards defending individuals' privacy rights, unlike its Europe counterparts. Buchanan's wind blows all around, and it is worthwhile pointing out the basic features thereof. According to Buchanan, individualism must be given a free rein, and should prescribe the non-violation of the constitutional right to privacy. The collectivised, politicised sector of the economy is deemed too intrusive; that is, it hinders the enjoyment of individual liberty. Constitutional constraints should be imposed on the Government's power to restrict private actions, including specific choices such as smoking cigarettes, drinking alcoholic beverages or gambling in Las Vegas (Bucahan and Musgrave, 2001). There is a fear that the contractarian state could degenerate into a form of "benevolent" despotism (Buchanan, 1975), according to the organistic theory whereby the State acts for the benefit of society as a whole. The latter might coercively and illegitimately violate the constitutional contract regarding individual rights. On these grounds, Buchanan refutes the legitimacy of many of the actions that have been implemented by the U.S.A's governmental-bureaucratic apparatus from the 1970s onwards. In particular, Buchanan claims that many tax reforms which were advocated on the grounds of efficiency were in reality introduced simply to increase tax revenue. The power to "*tax is simply the power 'to take'*". The role of constitutional fiscal rules is to limit and appropriately direct the coercive power of government, as is clearly embodied in its power to tax (Brennan and Buchanan, 1980).

Buchanan spent a year in Italy during the 1950s and found that "*Italians had escaped the delusion of state omniscience and benevolence that has clouded the minds of English- and German-language social philosophers and scientists*" (Buchanan, 1999). However, more than two thousands years ago in Italy, the Roman Empire did not only provide defence and guarantee law & order, but was also building long-distance roads, waterworks and sewerage systems, also by exploiting private property rights. The Roman Empire had a sort of welfare program, where it redistributed a great amount of food and other goods to the urban poor. It organised various circuses, shows and games to entertain the population (and to keep people quiet)[1]. The same role has been played, more or less, by mainland European states since the Renaissance, and even more so since the rise of modern absolutism following the signing of the Peace of Westphalia Treaty (1648).

However, in the Anglo-Saxon world, and especially in the USA, some of these areas of state involvement were not seen until the end of the 18th century, and indeed some are still not in evidence at all. In more than one case this has been justified on the grounds that the State should not possess the power to violate individuals' rights and spheres of action. I suspect that the welfare of citizens was higher in continental Europe.

I could give another historical example of tax policy that is far removed from Buchanan's view of the role of the state. In ancient Athens, during the 5th century B.C., Solon's taxes (the *eusfories* and *liturgies*) became highly progressive over the course of time. This happened because voting power was attributed, under the majority rule, to the citizens' general assembly, where the poor far outnumbered the rich (Gera, 1975)[2].

A more recent, but quite striking, example of different attitudes towards public intervention is the way in which progressive global income tax was adopted in a series of countries (Steve, 1976). In the USA, a constitutional amendment of 1913 was required in order to produce a shift from proportional, non-personalised taxation to the modern global, progressive income tax. The Supreme Court managed to hinder this shift for years, by alleging that it was both destroying tax payers' neutrality toward the state (and vice-versa) and was deeply intrusive of individuals' private spheres. When income tax was first introduced in the UK (1842) it was essentially a mildly progressive global tax assessed on separate sources of income: this was not the case in Germany, on the contrary, where from its very introduction at the end of the Bismarkian era (1891), the Prussian *Einkommensteur* was a true progressive global income tax.

Finally, the creation of a true "Big Brother" requires not only the will , but also the ability, to do so. This could only happen in very few countries. Tax evasion and the black economy are not the prerogative of (the majority of) past command economies (Bernardi and other, 2005) and developing countries (Shome, 2006), but can be found

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[1] One may observe that "*panem and circences*" (i.e. the distribution of bread and circus entertainments) did disclose also a Leviathan role of the state.

[2] At the time of the debate over the adoption of a global income tax, tax scholars, such as Edgeworth (1958) and Sidgwick, claimed that Athens' excessively progressive taxes lay at the roots of the Republic's decadence at the end of the 5th century B.C., as they reduced the labour supply and effort. Subsequent studies have failed to confirm this hypothesis.

elsewhere[3]. It is difficult to imagine a Tax authority that is poor at performing its own ordinary tasks and yet capable of the organisation and efficiency required to constitute a "Tax Big Brother".

Professor Slemrod's fears of a future Tax Big Brother do not concern the short and medium term. During this period, the prevailing system of collection by means of withholdings[4] of the main income taxes, means that tax systems are business based - as in the case of VAT or RST - rather than personalised. The tax system may well be converted towards a more depersonalised tax system, out of concern for privacy, by setting aside global income tax, the personalisation and tax-payer tagging of which - as Professor Slemrod reminds us - has grown significantly in the U.S.A. over past decades (Akerlof, 1978) also as a result of political-economic type stimuli (Hettich and Winer, 1999)[5].

According to Professor Slemrod, Oceania will be with us in 10, 20 or 30 years, when great advancements in computer technology have destroyed the link between business-based tax systems and the depersonalised system. New technologies will enable tax authorities to delve deeper into tax payers' private sphere. Governments will be able to carefully scrutinize taxpayers' tags thus over-personalising their income taxes to the point where they violate taxpayers' constitutional right to privacy. There will be a need to balance the benefits of utilizing more advanced technology and the worries over privacy and governmental power. I am not certain that this is how events are going to work out, however.

In the long run, globalisation will constrain the modelling of tax systems far more than it already does, given the increasing mobility of tax bases, and the consequent tax competition. Economic integration will undermine the taxing authority and the political sovereignty of national governments (Tanzi, 1995). Due to tax competition, total fiscal pressure is destined to decrease. Many factors are going to shape tax designs consisting of simple, weakly progressive taxes broadly implemented in the source country in a scheduler way, while global income tax will be abandoned. The share of taxes based on the benefit principle is going to increase, as Buchanan and Brennan advocate the implementation of the contracting state's principle of fiscal

[3] For instance, in Italy corporations are estimated to evade 30% of their taxes. This figure rises to 60% in the case of the self-employed.
[4] Professor Slemrod reports that American conservatives hate the withholding system because it reduces the visibility and the political costs of tax collection.

exchange (Buchanan and Brennan, 1980). Nordic DIT, recent flattening of rates adopted by many countries, the spread of the separate taxation (outside the income tax base) of capital incomes to at least avoid a collapse of the residence principle and a full shift to the source principle, are the first, astonishing examples of what is happening.

The restoration of the residence principle and the rebuilding of a global, personalised income tax, could be the product of a leap in the sharing of information among countries concerning the incomes earned and the taxes paid in different countries by the same tax payers (the new Big Brother).

In fact some progress has been made in this direction. Consider, for instance, article 26 of the OECD Convention or the new tax regime covering foreign interest earned within the EU. However, in 1999 Tanzi and Zee had already warned us that a country self-moving to provide tax information on non resident taxpayers would become a less attractive taxing country, especially in a world of tax competition. Tanzi and Zee produced also a long list of factors which may make information sharing ineffective.

Coming now to the same topic, Keen and Lightart (2006) do not outline a very different picture. They begin to show just how complex the information needed for a global income tax would have to be: "*information on interest and other capital incomes received, employment incomes, ownership structure (…), expenditure claimed as deductions*". The incentives to provide information on a voluntary basis are weak and contradictory. Mutual cooperation among some countries is undermined by the third country problem. Finally, the legal, informational and practical obstacles to information sharing, are not going to be overcome easily.

To conclude then, in a globalised world, where the same tax payers receive income and wealth from different countries, incentives and obstacles do not seem to allow information sharing to be a surrogate for the residence principle.

As astonishing as those further improvements in computer technology, as expected by Professor Slemrod, may well be, Oceania does seem to be around the corner. Future Governments, whether contractarian or despotic, seem bound to deal with the "minor" problem of safeguarding a minimum degree of tax efficiency and equity rather than being so intrusive as to tax people on their ability, not on their incomes or

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[5] Interest groups will lobby to build loopholes in the tax bases and the politicians will comply with these demands if they want to win elections.

consumptions, as required by the fanciful recommendations of optimal taxation theory (without too much respect of individual privacy).

References

Akerlof, G. (1978) 'The economics of "tagging" as applied to optimal income tax, welfare programs and consumption training', *American Economic Review*, vol. 68, pp. 8-19.

Bernardi, L., Chandler, M. and Gandullia L. (2005), *Tax systems and tax reforms in New Eu Members*, London and New York: Routledge.

Brennan, G. and Buchanan J.M. (1980), *The power to tax: Analytical foundations of a fiscal constitution*, Cambridge: Cambridge University Press.

Buchanan, J.M. (1975), *The limits to liberty. Between Anarchy and Leviathan*, Chicago and London, The University of Chicago Press.

Buchanan, J.M. (1999), *The logical foundations of constitutional liberty*, Indianapolis: Liberty Fund.

Edgeworth, F.I. (1958), ' The pure theory of taxation', reprinted in Musgrave, A.R. and Peacock, A.T., *Classics in the theory of public finance*, London: The Macmillan Press for the International Economic Association, pp. 119-136.

Gera, G. (1975), *L'imposizione progressiva nell'antica Atene,* Roma: Giorgio Bretschneider.

Hettich, W. And Winer, S.L. (1999), *Democratic choice and taxation*, Cambridge: Cambridge University Press.

Keen, M. and Ligthart J.E. (2006), 'Information sharing and international taxation: A primer', *International Tax and Public finance*, vol. 13, pp. 81-110.

Musgrave, R.A. (1969), *Fiscal systems*, New Haven and London: Yale University Press.

Musgrave, R.A. and Buchanan, J.M. (2001), *Public Finance and public choice. Two contrasting visions of the state*, Cambridge, Mass.: The Mit Press.

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Shome, P. (2006), 'The control of tax evasion and the role of tax administration', in Bernardi, L., Fraschini, A. and Shome, P. (Eds), *Tax systems and tax reforms in South - East Asia*, London and New York: Routledge, pp. 35-63.

Slemrod, J. (2006), 'Taxation and the Big Brother: Information, personalisation and privacy in 21st century tax policy', *Fiscal Studies*, vol. 27, pp.1-15.

Steve, S. (1976), Lezioni di scienza delle finanze, Padua: CEDAM.

Tanzi, V. (1995), *Taxation in an integrating world*, Washington, D.C.: The Brookings Institution.

Tanzi, V. and Zee, H.H. (1999) 'Taxation in a borderless world: The role of information exchange', in Lindercrona G., Lodin, S.O. and Wiwan, B. (Eds), *International taxation: Law and economics*, London: Kluwer Law International.