Which tax regime for the non profit legal persons’ income?

Which balance between tax law and civil law?
OUTLINE

A. What is the topic of the doctoral project?

B. Current issues: should I redefine the topic of my research?
A. What is the topic of the doctoral project? – who?/what?

- (1962) – Tax reform
  - "one taxpayer / one tax" principle
  - Four income taxes among which:
    - a tax on the total income of resident companies, called "corporation tax";
    - a tax on income of legal persons other than companies, called "tax on legal persons".

- TLP – scope: public authorities / private entities (non profit sector)

- Limitation to the private non profit sector. Why?

- Social economy in Belgium => four legal forms:
  - the non-profit association,
  - cooperatives,
  - social purpose companies
  - foundations.
A. What is the topic of the doctoral project? – why?

1. Competition between TLP and CT
   - « all of nothing »
   - Big differences

<table>
<thead>
<tr>
<th>TAX BASE</th>
<th>CT</th>
<th>TLP</th>
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<tbody>
<tr>
<td>active and passive incomes</td>
<td>only passive incomes</td>
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<tr>
<td>=&gt; LIMITATED BASE</td>
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   | RATES     | Proportional rate: 33.99% (unless reduced rates) | Specific rate for each income (generally lower) |
   |           | => LOWER RATES                  | => LOWER RATES                  |

2. Legal texts relating to the TLP unsuitable
   - (unstable) case law and (really shared) doctrine
   - Legality and legal certainty principles

3. Economic importance
   - 5.5% of GDP & 12% of employment

=> LACK OF AN APPROPRIATE FISCAL STATUS
A. What is the topic of the doctoral project? – for what?

- A new model of TLP – *de lege ferenda*
  - after
    - a diagnosis of the current system
    - some proposals over the current system – *de lege lata*

- Valuable guidance for actors of private non-profit sector
A. What is the topic of the doctoral project?

– How ?

• **Both** civil law and tax law aspects studied:
  – Tax system is formally intended as an extension of the civil law.
  – Today: tax law distorts civil law.

• Tax law **should be reconnected to civil law** (hypothesis 1)
  – Comparative law approach – functional approach
  – French and British legal systems

• Tax law **should be developed in full autonomy** with regard to civil law (hypothesis 2)
  – European Union law (VAT)
  – Reflections through the terminology of the EU: "competition", "economic activity", “state aid”, ...
  – European legal frameworks
    • proposal for a European Foundation Statute
B. Current issues: should I redefine the topic of my research?

- Law of 19 December 2014
  - *Intercommunales* should be considered, from a fiscal point of view, as private entities.
  - Extension of the scope to public entities?

- Redefining a plan