

**Which tax regime for the non profit
legal persons' income?**

**Which balance between tax law and
civil law ?**

TAX SEMINAR – BOLOGNE – FEBRUARY 6-7

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

	CT	TLP
TAX BASE	active and passive incomes	only passive incomes => LIMITED BASE
RATES	Proportional rate: 33.99% (unless reduced rates)	Specific rate for each income (generally lower) => 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
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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

