

On the Pursuit of Tax Justice: The Route from Constitutional Principle of Equality to Ability-to-Pay Principle of Tax Law

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Abstract

In this article, with the issues to pursue for justice of taxation, researches the path from general principle of equality based on the Article 7 of the Constitution extends to the ability-to-pay principle in tax law. Beginning with the specifications, constitutional interpretations and doctrine or principle of equality of rights, have been discussing the differences between American and German Praxis on the principle of equality. In compare to the steps for review of unconstitutional law in American focus on the classification criteria, in Germany are on the other hand to reviewing the comparability requirements based on the premise, if there are reasonable lawmaker's decisions to justify. Since taxes are to meet the financial needs of countries and for the inland people to payment of money, it belongs to the distribution of burden of taxes between each individual. To pursue tax justice shall proceed under the concept of distributive justice. From the standpoint of distributive justice, several possibilities as a standard for distribution of the burden of those taxes, including equal per head tax, equal in accordance with the degree of personal benefit and equal in accordance with the amount of the individual's ability to pay. In this paper is the ability to pay principle considered as fundamental principle for tax laws. Finally, the discussion of preferential taxes, this paper argues, it should be examined at least moderate or strict American standard of review, or take German synthetic review based on the so called new model of principle of equality.

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