

**The Justice of Taxation and Principle of Evaluational
Consistency (Folge-richtigkeit): On Klaus Tipke's Theory of
The Justice of Taxation and Its Standards for Tax Statutory
Law**

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Abstract

Justice of taxation is one of important theme in theory of justice. It does not only analyze and prove the legitimacy of Taxation, but also discuss the limitation of the taxation, in order to protect the right of property of individual.

This paper tries to discuss one of the most important theories of Justice of Taxation in German public law, which is developed by the famous German jurists in tax law: Klaus Tipke.

Tipke thinks, that the justification of taxation should meet the ethical criterions of justice. These criterions constitute the content of their theories of justice of taxation. These ethical criteria of taxation include freedom, equality and the practicability of taxations.

In tax law, this ethical idea is distributive justice (equality from justice). For Tipke, the burden from taxation should be equally distributive to each citizen in the state. Furthermore, the equal distribution of the burden from taxation means the taxation according to the equality from the principle of ability to pay (Leistungsfähigkeitsprinzip).

Tipke builds his science of tax law on the foundation of the principle of ability to pay. The principle of ability to pay is the only main guiding principle of the system of the whole tax law. Tax, which cannot coordinate with the principle of ability to pay, should be abolished. The law and policy of tax preference, which

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disobey the principle of ability to pay, should be justified by other important social welfare or public interest. Tipke wants to use the principle of ability to pay to arrange the chaotic situation of German tax law, to organize the tax law as a system of consistent evaluations. As a result, on the one hand, the legislation of the tax law should be according to the principle of consequentiality or evaluational consistency (Folge-richtigkeit) and the doctrine of self consistency (Widerspruchsfreiheit). On the other hand, the enforcement and the jurisdiction of tax law should be not only consistent, but also stable under the guideline from the unity of evaluation of system of tax law. It also constitutes the idea of justice of system (Systemgerechtigkeit).

Tipke uses the idea of justice of system and the principle of ability to pay to build his theory of justice of taxation, in order to provide the standard for the tax statutes. The last section of this paper criticizes the problems of Tipke's theory.

Keywords: Justice of Taxation, The Principle of Ability to Pay (Leistungsfähigkeitsprinzip), The Principle of Consequentiality or Evaluational Consistency (Folgerichtigkeit), Equal Justice