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Furthermore, we are planning a German version of our newsletter. Please let us know if you would prefer to receive the German version in future.
Economists typically assume that individuals behave in a way that maximises their well-being. While this may be true in many cases, this assumption is increasingly subjected to criticism from both economists and psychologists. One just needs to think of our handling of alcohol and drugs, or of our dealing with the world’s energy resources. Also, labour-supply decisions are bound to be suboptimal if people have misperceptions about the income tax system, about their own preferences, or if they are constrained by firm-imposed restrictions on working hours.

In a recent publication, Dr. Aart Gerritsen shows how the income tax system could be adjusted to correct for suboptimal labour-supply decisions. If people work mistakenly much – for example because they suffer from ‘workaholism’ – they should be encouraged to work less with higher marginal income taxes. If people work mistakenly little – for example because they value the immediate gratification of shirking too much compared to the benefits of working – they should be encouraged to work harder with lower marginal income taxes. Gerritsen derives the optimal tax schedule in terms of so-called “sufficient statistics” – statistics that can be measured empirically. One of these statistics measures the degree to which individuals fail to optimise their labour supply. He estimates this variable by using a British survey on people’s self-reported life satisfaction. By doing so, Gerritsen’s is the first study to integrate the empirical literature on the determinants of subjective well-being with the theoretically rigorous study of optimal taxation. He finds a robust single-peaked relationship between life satisfaction and working hours. This allows him to determine people’s optimal number of working hours. He finds that low-income workers tend to work ‘too little’ and high-income workers tend to work ‘too much.’ This naturally leads to a corrective argument for distortive taxation. It implies that marginal tax rates should be higher at the top and lower at the bottom of the income distribution to encourage high-income workers to work less and low-income workers to work more.

Companies going through difficult economic times can carry losses forward and, once they have recovered, set them off against profits. A sensible feature of a tax system, which nonetheless enables problematic tax planning: the acquisition of a shell company. This involves a corporation, whose business has failed, being bought simply because of its carried forward losses. In order to prevent this kind of loss-trafficking, Germany introduced § 8c of the Corporate Income Tax Act (KStG) in 2008. According to § 8c KStG, a corporation’s carried forward losses are partially or even completely forfeited if more than 25 or more than 50 percent of the shares in the loss company are transferred to a purchaser, unless some narrowly defined exceptions apply. Introduced to prevent the trafficking in loss companies, § 8c KStG also hindered perfectly sound investments that were not motivated by the desire to buy tax losses. In particular, § 8c KStG discriminated against companies in need of restructuring and against young, innovative companies that depend on the capital of external investors in order to finance losses incurred for the development of new products and business models.

In order to address the shortcomings of § 8c KStG without opening up opportunities for loss-trafficking, policymakers had to master a difficult regulatory balancing act. The result is the new § 8d KStG, which takes effect from 1 January 2016. § 8d KStG is based on the recommendations of a working group of the German Federal Government that included Prof. Dr. Dr. h.c. Wolfgang Schön and Dr. Erik Röder from the MPI for Tax Law and Public Finances. § 8d KStG allows corporations to keep their carried forward tax losses in spite of a change in the corporation’s ownership structure, as long as the corporation continues its business activities substantially unchanged. Thus the carrying forward of losses is only denied if, in addition to a substantial change in the ownership structure, a corporation’s business is substantially altered. Together, § 8c KStG and § 8d KStG prevent trafficking in tax losses and ensure that carried forward tax losses are only lost if an innovative company’s business model ultimately fails.

The 2nd Munich-Sydney Conference on the Law and Economics of Taxation was held at the University of Sydney on 28 and 29 November 2016. It marked the latest example of the dynamic academic cooperation between the Max Planck Institute for Tax Law and Public Finance and the Ross Parsons Centre of the University of Sydney.

The interdisciplinary conference followed the example of the first successful Munich-Sydney Conference held in Munich in 2013. As in 2013, researchers in tax law and public finance from the University of Sydney and the MPI for Tax Law and Public Finance met to discuss their current projects. Topics included the future role of corporate income taxation and the optimal design of a General Anti-Avoidance Rule as well as empirical work on tax evasion and a comparative study on flow-through taxation. Wolfgang Schön (MPI for Tax Law and Public Finance) presented alternative models for international tax policy. Ray Rees (University of Sydney) highlighted new perspectives on Capital Income Taxation. Kai A. Konrad (MPI for Tax Law and Public Finance) shared the results of his research on the relevance of coordination in the fight against tax havens. Richard Vann (University of Sydney) reflected on the OECD’s thinking about PE Attribution. Both lawyers and economists benefited enormously from the interdisciplinary comments and the thorough discussions with their colleagues. The conference further strengthened the world-spanning cooperation between the Ross Parsons Centre of the University of Sydney and the MPI for Tax Law and Public Finance.
Kai A. Konrad from the MPI for Tax Law and Public Finance discussed how in a series of battles the way the overall budget is allocated throughout the different battles influences fighting efforts. For instance, he shows that if a player has to pick the overall budget prior to the first battle and then allocate this chosen budget time-consistently during the course of the campaign, he tends to allocate the budget symmetrically across all battle states that are reached and no discouragement or showdown effects occur. These effects can usually be found in campaigns where players choose their battle effort independently for each given battle once the state in which the battle will take place has been reached.

In March 2017, on a joint initiative of the MPI for Tax Law and Public Finance and the National Graduate Institute for Policy Studies in Tokyo, renowned researchers from the field of public finance presented their latest findings at the 2nd Public Policy Workshop in Munich.

Atsue Mizushima from the Otaru University of Commerce discussed how income inequality affects social welfare in a model of voluntary contributions to multiple pure public goods. She suggests that two types of redistribution policy towards the contributors, namely inequality-raising and income-equalising redistribution, may raise social welfare under certain constraints.

Amihai Glazer of the University of California studies the dynamics of corruption and looks at how theft in one period affects theft in future periods. In some cases, a principal who is aware that an agent will steal will nevertheless fund the agent because he values the output the agent produces. Glazer shows that under some conditions the agent can even increase the budget he gets in period 2 by engaging in greater corruption in period 1. However, a budget constraint imposed for the final period can limit corruption in each period and induce efficient investment.

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One of the central challenges that governments face at any point in time is: how to manage income redistribution. According to Timothy Besley, Professor of Economics and Political Science at the London School of Economics and Political Science (LSE), the way a government addresses this challenge is not only crucial for the well-being of a state’s citizens and for social stability, it also lies at the heart of the idea of building and maintaining an effective government. According to Besley, the relationship between income distribution and politics is reciprocal. Politics not only determines redistribution. Redistribution itself feeds back through different channels into future inequality, and income inequality, alongside other underlying social, political and economic cleavages, influences how successful states can be built and sustained.

Honoured with the prestigious Reimar Lüst Lecture on November 11, 2016, at the MPI for Tax Law and Public Finance in Munich, Timothy Besley painted a vast global and historical picture of how cohesive polities can be built in the face of society’s cleavages, such as rich vs. poor, old vs. young or an indigenous vs. a migrant population. As Besley argues, the successful development of a state requires institutional solutions to reconcile conflicting interests. Contrary to popular conceptions, Besley argues that the shift in focus from selective interest policies that predominantly serve those at the pinnacle of the government—as is currently occurring in Latin America—to common interest policies, cannot be accomplished simply by holding democratic elections. It is also
necessary to build cohesive institutions like courts, parliaments and media that regulate the use of governmental power. The concept of state capacity is at the centre of Besley’s considerations, i.e. the institutional capability of the state to carry out various policies that deliver benefits and services to its citizens and affect the level and distribution of income. Successful modern states, as Besley demonstrates, have built strong state capacities. But they are currently meeting great challenges, due to new cleavages created by globalisation and global mobility. As Besley argues, income inequality is deepening with increasing globalisation. But while the world has become a lot more integrated in recent years, almost all effective state capacity has remained at the level of nation states. Despite global interconnections, he sees very little effective scope for supra-national action. Consequently, according to Besley, the major questions to be answered in the future will be: Which developments in state capacity are needed to meet the new challenges? Can the world build institutions that can manage the diversity? Do we need significant moves beyond the power of nation states? Do we need supra-national institutions?

Dr. Andreas M. Fleckner, Head of the Otto Hahn Group on Financial Regulation at the MPI for Tax Law and Public Finance, was awarded the Alumni Prize 2016 for his article “Die Börsengeschäftsbedingungen” (General Terms and Conditions Among Stockbrokers), published in the Zeitschrift für das gesamte Handelsrecht und Wirtschaftsrecht (ZHR) 180 (2016), 458–521. The prize was awarded by the Alumni Association of the MPI for Tax Law and Public Finance to honour an outstanding academic publication by a researcher currently working at the Institute.
Prof. Dr. Dr. h.c. Wolfgang Schön was appointed a member of the National Academy of Sciences Leopoldina in December 2016. The Leopoldina, which grants him admission to the “Cultural Studies” section of the academy, honours his outstanding scientific achievements. Founded in 1652, it is one of the oldest science academies in the world. Leopoldina’s aim is to address key issues of particular significance for the future of society from a scientific perspective and independently of economic or political interests and to share the findings in scientific and public debate on a national and international level. Currently it comprises 1500 members, distinguished national and international scholars and is the biggest German Academy of Sciences.

With effect from November 2016, Wolfgang Schön has also been appointed to the Board of Trustees of the Hertie Foundation. The Hertie Foundation is one of the major private foundations in Germany, with assets of around one billion euros. Its areas eligible for funding are education, neuroscience and social innovation.

Prof. Dr. Kai A. Konrad has been appointed Chairman of the Scientific Advisory Council of the Centre for European Economic Research (ZEW) in Mannheim. The Director at the MPI for Tax Law and Public Finance is the successor to Professor Friedrich Buttler, the long-standing chairman who resigned at the end of last year. The Centre for European Economic Research (ZEW) in Mannheim is a non-profit and independent research institute. Since its foundation in 1990 it has gained a strong reputation throughout Europe and has become one of the leading economic research institutes in Germany. The Scientific Advisory Council monitors and reviews ZEW’s work and plays a significant role in the quality assurance of its research activities and economic policy advice.

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Dr. Angelika Meindl-Ringler, a former doctoral student at the MPI for Tax Law and Public Finance, received the “International Tax Law Award 2017” from the German Federal Chamber of Tax Consultants (BStBK) for her doctoral thesis “The Concept of Beneficial Ownership in International Tax Law”. Volker Kaiser, the vice director of the BStBK, presented her with the award at the German Tax Consultant Congress in Munich on 29 May 2017. The dissertation focuses on the use and interpretation of beneficial ownership, a topic that is the subject of intensive and controversial discussion in the field of international tax law. In his laudatory speech, Volker Kaiser praised the significant contribution that Angelika Meindl-Ringler’s work makes to international tax law and how it poses the right questions to advance the profession of tax consultants. She has authored an outstanding work with practical application and great relevance.

THREE DISSERTATIONS HONOURED

Dr. Johanna Stark, a Senior Research Fellow at the MPI for Tax Law and Public Finance since January 2017 and Dr. Angelika Meindl-Ringler, a former Research Associate at the Institute, have been awarded the Faculty Award 2016 for their doctoral theses by the Faculty of Law of the Ludwig-Maximilians-University in Munich. Furthermore, Dr. Julian Schroeder, a former guest researcher at the Institute, is also one of the prize-winners. The Faculty of Law award of the LMU Munich is granted by the Alumni Association for doctoral theses that have been assessed with “summa cum laude” by the first and second assessors as well as in the oral examination.
FRANQUI CHAIR HONOUR FOR WOLFGANG SCHÖN

With an inaugural lecture on “The Future of International Tax Law” delivered on 16 March 2017, Prof. Dr. Dr. h.c. Wolfgang Schön took up the International Franqui Professor Chair at the University of Antwerp. Honoured as the “International Francqui Research Professor” by the Belgian ‘Fondation Francqui’, he holds the position for the academic year 2016/2017. Every year, based on proposals from Belgian universities, the Fondation Francqui nominates three ‘Francqui Chairs’ to academics of the highest international reputation and scientific excellence: one for the Sciences, one for the Humanities and one for the Life Sciences. Wolfgang Schön has been nominated by the universities of Liège and Antwerp to represent the Humanities and has been elected by the Board of Directors of the Foundation for the Chair. Apart from the Inaugural Lecture, Schön will deliver six Classes of Excellence and a Closing Symposium as part of his honorary professorship at the University of Antwerp.

GIMENO RIBES APPOINTED ASSISTANT PROFESSOR

Dr. Miguel Gimeno Ribes, Senior Research Fellow and Member of the Otto Hahn Group at the Max Planck Institute for Tax Law and Public Finance, was appointed “Profesor Ayudante Doctor” at the University of Valencia as of October 1, 2016. Miguel Gimeno Ribes studied law, economics, and music in Valencia, where he completed his PhD with a dissertation on corporate law in 2015. Following a research scholarship at the MPI for Comparative and International Private Law in Hamburg, Gimeno Ribes was a Senior Research Fellow at the MPI for Tax Law and Public Finance. As a Member of the Otto Hahn Group on Financial Regulation, he remains actively involved in the Group’s research projects on the regulation of delisting and on the birth of Germany’s securities law.
Prof. Dr. Alexander Hellgardt, a former Senior Research Fellow at the MPI for Tax Law and Public Finance, has accepted a call to Regensburg University. He took on the role of Chair of Private Law, Corporate Law and Jurisprudence, on 1 April 2017. Alexander Hellgardt studied Law and Philosophy (B.A.) at Eberhard-Karls-University in Tübingen, Hamburg University and Harvard University. He wrote his dissertation on capital market liability at the MPI for Comparative and Private Law in Hamburg and received his doctoral degree in 2008. After a period of research at Harvard Law School, Hellgardt started working as a Senior Research Fellow at the Max Planck Institute for Tax Law and Public Finance in 2009. In July 2015 he received his post-doctoral degree (Habilitation) from the Ludwig-Maximilians-University in Munich, where he then worked as an acting professor during the 2015/16 winter term and the 2016 summer term. During the 2016/2017 winter term he already served as an acting professor at Regensburg University.

Dr. Aart Gerritsen, a former Senior Research Fellow at the MPI for Tax Law and Public Finance, has been appointed an assistant professor at the Erasmus University in Rotterdam. On 1 June 2017 he joined the Department of Economics at the Erasmus School of Economics. Aart Gerritsen studied economics at Utrecht University and the University of Groningen. After completing his Master’s in Economics and Econometrics in 2008 he worked as an economic researcher at McKinsey & Company until 2009. From 2009 to 2013 he wrote his PhD thesis at the Tinbergen Institute of Erasmus University, Rotterdam. His paper entitled “Equity and efficiency in rationed labor markets” was honoured with the Young Economist 2011 award from the International Institute of Public Finance (IIPF), the world organisation of public finance economists. From 2013 to 2017 Gerritsen joined the MPI for Tax Law and Public Finance as a Senior Research Fellow. He will continue to be associated with the Institute as a research affiliate.
Old Money, the Nouveaux Riches and Brunhilde’s Marriage Strategy

Anne-Kathrin Bronsert, Amihai Glazer and Kai A. Konrad


In the epic poem ‘The Song of the Nibelungs’ Brunhilde announces that she will only marry a suitor who wins in a fight with her. Modern courtship rules may be less violent, but courtship is still costly and these costs may hurt both the suitor and the potential bride: extensive status consumption by suitors may dissipate future family income. However, conspicuous spending in a courtship may also provide important information about a potential partner’s income or earnings potential. In a recent publication, Anne-Kathrin Bronsert, Kai A. Konrad and Amihai Glazer show how a potential bride may induce, but at the same time curb, conspicuous spending. This strategy serves two objectives: For one thing, it allows her to find a sufficiently wealthy husband – which is in line with the resource motive guiding female mate choice as highlighted by evolutionary biologists and psychologists. For another, the potential bride rejects suitors who conspicuously spend too much, thereby avoiding a waste of resources which the married couple could make better use of, for example, when raising children. The authors also suggest an explanation for why conspicuous spending is higher among the “new rich”. In contrast to suitors with an “old money”-background the new rich may lack visible indications of high wealth. As a consequence, the potential bride asks for a higher level of conspicuous spending to ensure that such a suitor is indeed sufficiently wealthy.

SELECTED PUBLICATIONS


Today, one big challenge confronting tax authorities worldwide is ferreting out aggressive or abusive tax avoidance strategies. One way to obtain timely information on such strategies would be to implement mandatory disclosure rules for tax advisors within national tax systems. Internationally, such rules are used more and more frequently; they are also recommended by the OECD to combat aggressive tax planning. In a book published recently, which is based on an expert opinion for the German Federal Ministry of Finance, Christine Osterloh-Konrad, Caroline Heber and Tobias Beuchert examine options and limits for a legal requirement to disclose aggressive tax schemes to the authorities. After clarifying the aims of a statutory duty of disclosure for tax advisors, the authors analyse its constitutional and European law constraints and discuss how statutory disclosure rules targeting aggressive tax planning could be designed within the German legal framework. The policy recommendations are to a large extent based on the results of a legal comparison of mandatory disclosure rules that already exist (e.g. those to be found in the UK, the US and Canada). To maintain the fairness of the tax system, it is recommended that disclosure duties, which improve transparency for tax authorities, are introduced in combination with measures fostering transparency for the taxpayer.

**Regulierung und Privatrecht**

*Alexander Hellgardt*

Mohr Siebeck, 2016, XXXIV, 848 pages.

The balancing of private interests has hitherto been seen as the primary task of private law. Alexander Hellgardt shows in his post-doctoral dissertation, recently published by Mohr Siebeck, that private law is better conceived of as a tool which the legislator may use to regulate the economy or society. Hellgardt illustrates the regulatory function of private law using sales law and property law as main examples. He examines regulation by means of private law in order to pursue public interest goals and presents conclusions for jurisprudence, legislation and legal practice.
Electoral thresholds are hotly debated. Those who argue in favour, stress that thresholds function as a protectionist measure against political fragmentation and radical movements. Opponents critically claim that thresholds interfere in the equal opportunities of political parties and suppress the democratic representation of every single vote. Recently, several countries adjusted their legal electoral threshold. With the re-opening of the debate on their benefits and drawbacks, it is important to obtain credible causal evidence on how thresholds affect political representation. In a recent publication Thushyanthan Baskaran and Mariana Lopes da Fonseca study the effects of electoral thresholds on political representation, relying on a reform in the German federal state of Hesse that abolished a 5% threshold for local elections. They show that electoral thresholds appear to have a substantial causal effect on political outcomes. Abolishing the explicit electoral threshold in the long run increased the vote and seat shares of relatively small local parties at the expense of more established medium-sized and larger parties. Baskaran and Lopes da Fonseca find that the increase in the local parties’ seat shares is explained by changes in voting patterns, which suggests that the reform had substantial psychological effects. Also in the long run, voter turnout appears to increase, though to a limited extent. According to the authors, the delayed response to the reform can be explained by the initial uncertainty associated with the reform and the resulting selection of parties.

Interested in more scientific research results?

Read the discussion papers of the research fellows of the Max Planck Institute for Tax Law and Public Finance on:

The Prince or Better No Prince – The Strategic Value of Appointing a Successor
Kai A. Konrad and Vai-Lam Mui

Journal of Conflict Resolution, forthcoming.

Whether in a company, an institution, a political party or even in a criminal organisation, appointing a successor (the “prince”) can be advantageous for the ruler (“the king”) but can also entail threats and disadvantages. In a forthcoming publication Kai A. Konrad and Vai-Lam Mui analyse if and when the appointment of a prince is in the interest of the incumbent and stabilises his regime. They show that the existence of a designated successor alters the structures of conflicts that take place between the ruler and his potential challengers as well as the structures of conflicts that take place among his potential challengers. The appointment of a prince has two main effects: First, the prince constitutes an additional hurdle for contenders who aim at taking over the power and may therefore stabilise the regime of the incumbent. Second, the appointment of an heir places the prince in an elevated position that makes a coup easier for him than for one of the many contenders. Hence, a prince offers increased protection against the rest of the elite (the barrier effect), but the prince himself becomes a powerful and potentially dangerous contender (the elevated threat effect). In turn, this changes the distribution of rents. Konrad and Mui study the trade-off between these two effects and identify conditions when the overall effect of appointing a successor benefits the incumbent ruler and enables him to acquire a larger share of the governance rent in equilibrium. Their article is the first contribution that formally analyses how the incumbent can strategically choose succession arrangements to maximise his lifetime rents in a dynamic model of mutual collaboration and competition between the incumbent and his powerful subordinates.

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