Universität Zürich[UZH]

Limitations of transparency and protection of the tax payer

Tax secrecy

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Overview

1. Some comparative remarks
2. The Secrecy Matrix
3. Assessment

Comparative remarks (I)

- Persons covered
  - Two approaches:
    - Enumarative definition (e.g. Austria)
    - All-encompassing definition (e.g. Belgium)

Comparative remarks (II)

- What information is protected/published?
  - Personal information obtained/received in the exercise of a public duty
  - Some exceptions from the tax secrecy seem necessary:
    - exchange between authorities (incl. courts)
    - information about tax exempt entities,
    - **higher public interests**,
    - publicly available information,
    - to the spouse,
    - consent of the tax payer,
    - tax authority can publish information in order to challenge facts published by the tax payer,
    - rather different approaches regarding the publication of taxable income and wealth (see next slide)

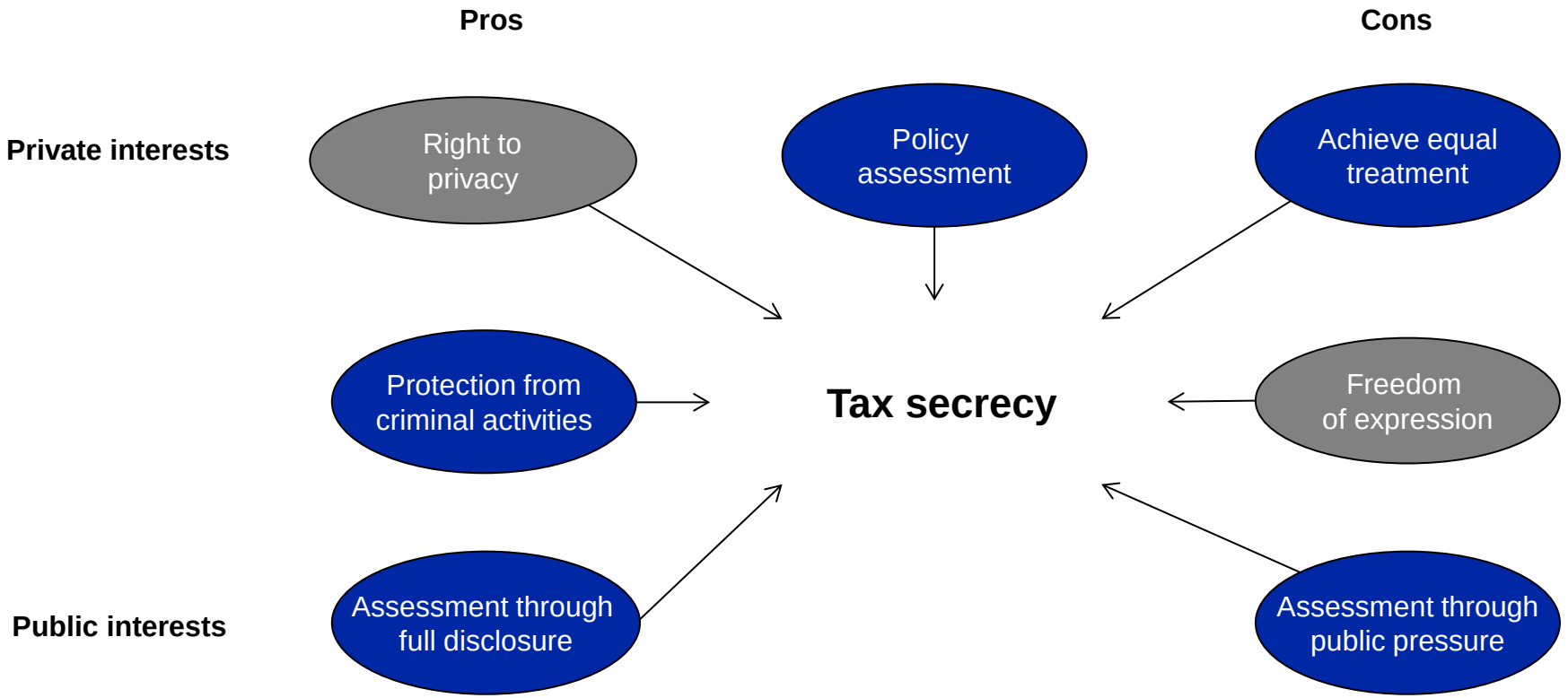
Comparative remarks (III)

Full disclosure*	Tax payer list or public access to taxpayer information	List of defaulters / specific list is published	Tax payer information remains secret**
n/a	Finland	Spain	Germany
	Sweden	Ireland	Belgium
	Some Swiss cantons	Poland	Greece

* I.e. all tax related data is publicly available (e.g. tax return, correspondence between the authorities and the taxpayer, etc.)

** Some states might, however, know a broad variety of exceptions (see previous slide)

The Secrecy Matrix



Assessment (I)

How should we balance these arguments?

- Legal guidance can be derived from decisions of the ECHR (and other courts)
  - ➢ See e.g. Satakunnan Markkinaporssi Oy and ano. v. Finland (app no 931/13) or Othymia Investments BV v Netherlands (app no 75292/10)

Assessment (II)

- Impacted by cultural differences (see the Swedish example)
- Different justifications between tax payers (e.g. publicly traded companies and SMEs)
- The applicable secrecy standard might change over time (see the example of the United States in the beginning of 20th century)
- Cost/benefit analysis might be different in each individual case
- Anonymous tax payer data must be published or at least open for research – society has to understand the impact of a tax policies – no disadvantages