Teka Komisji Prawniczej PAN Oddział w Lublinie, vol. XIV, 2021, no. 2, pp. 39–52
https://doi.org/10.32084/tekapr.2021.14.2-4

THE DEVELOPMENT AND TYPES OF THE INCOME TAX CONSTRUCTION

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INTRODUCTION

Public tribute is one of the elements of a wider category of public burden imposed by the public law norms. Historically, public tributes have evolved in different economic, legal and social conditions. This explains why they do not now constitute a coherent catalogue of financial instruments which could be described with some defined, homogeneous constitutive features. The system of public tributes has evolved for the past centuries from a simple division of tributes into taxes, fees and contributions towards more complex divisions, with two clear main currents of common and specific burdens. Both common and specific burdens are currently collected in monetary form, personal servitude or tribute in kind are excluded from it. The category of common burdens covers only taxes, that is the tribute which finances state's general tasks, not based on the principle of equivalency. Specific tribute does not serve the purpose of financing the state and does not burden all the people capable of paying this performance [Wołowiec 2016, 100–15; Idem 2020, 545–63].

The tax (Latin: *taxare*), means compulsory financial obligation imposed on the taxpayer (an individual or a legal entity) by the state or its legally equal counterpart. Currently, it is mostly collected in a monetary form, though in pre-capitalistic times it was also collected in kind. Regardless of the social and political formation of the state organism, it was first the ruler (prince, king, emperor) and then the state that needed and still needs means (monetary or in other form) to satisfy its needs and to accomplish its tasks (duties) towards its subordinates or citizens [Kesti 2012–2019; Gajl 1995, 3–60]. The fiscal aim was historically the main aim determining the imposition of taxes and development of the system of fiscal burdens [Grądalski 2004, 10–20; Idem 2006, 5–30; Gomułowicz and Małecki 2011].

1. PURPOSE OF ARTICLE, CRITERIA OF ANALYSIS AND RESEARCH METHODOLOGY

Legal sciences use typical methods encountered in social sciences and humanities, i.e.: examination of documents (legal acts and administrative court decisions), comparative methods (expert opinions, legal opinions, analyses resulting from linguistic, grammatical and historical interpretation) and case studies. The results of cognitive research are new theorems or theories. On the other hand, the result of research for the needs of economic practice is to determine whether and by how much the existing theorems and theories on personal income taxation are useful in the process of modeling and reforming personal income taxation systems in the context of realization of non-fiscal functions of taxation and the processes of globalization and unification of tax solutions.

Induction was used as the main research method. It consists in drawing general conclusions or establishing regularities on the basis of analysis of empirically observed phenomena and processes. It is a type of inference based on details about the general properties of a phenomenon or object. The use of this method requires the assumption that only facts can form the basis of scientific inference. These facts are real existing situations (economic and legal). Inductive methods include various types of legal acts, analyses, expert opinions, and scientific documents used in social research.

2. ALTERNATIVE CONCEPTS OF INCOME TAX

The construction of personal income taxes has been increasingly criticized. The pursuit of the doctrine's principles of taxation has led to a considerable complexity of its construction, making it incomprehensible to taxpayers and difficult and costly to administer for tax authorities. The definition of income for taxation purposes is not an easy task facing the tax authorities. It should be defined in such a way as to distort the decisions of economic agents as little as possible, while ensuring the basic function – which is the provision of public revenue – and possibly non-fiscal functions. Income can be defined in terms of its generation and its consumption. The distinction between these two approaches has become the basis of a multi-threaded discussion, the essence of which may be summarised in the question what should be taxed – income or consumption?

The definition of income from the side of its generation corresponds to the basic, most widespread, Schanz-Haig-Simons theory, according to which the tax base is formed by income from various sources, regardless of its type and regularity. Looking at tax revenue from the use side, on the other hand, requires making a distinction between consumption and savings. Consumption can be taxed in a variety of ways [Holmes 2000]. Indirect taxes in the form of turnover taxes (structured, for example, as value-added taxes) or selective excise taxes are common in most countries. The concept of consumption-oriented income tax is very capacious, as it includes numerous specific concepts. They use different approaches to the construction of the tax base and other tax variables, but what they have in common is that the part of income allocated to current consumption is taxed, while household savings or corporate investments are excluded.

Consumption-oriented income taxation is justified in two ways. The historically earlier argument refers to the fairness of taxation [Gomułowicz 2001]. According to it, consumption is a better measure of tax capacity than income. Over time, economists began to emphasize the second important feature of this form of taxation, which is the elimination of the so-called double burden of savings. It limits capital accumulation by discouraging savings and investment. Consumption-oriented income taxation has an attractive feature – it does not distort the decisions of economic agents. What is important, based on the feature of tax neutrality at the microeconomic level, it is somehow intuitively concluded that it translates into stimulation of saving and investment processes at the macroeconomic scale. According to this argumentation, a consumption-oriented income tax can be expected to have a pro-growth character. The practical experience to date is small and does not provide clear indications. Most results of simulation studies generally support this assumption. However, they are understandably based on model simplifications, and therefore can only strengthen the argument, not confirm it with absolute certainty [Grądalski 2006].

Therefore, it can be assumed that stimulation of economic growth is a likely consequence of a consumption-oriented income tax. The key element differentiating taxation of earned income and expended income is capital income – or more precisely, its part corresponding to a certain minimum interest rate, referred to as the normal return on capital. In the consumption-oriented approach, this is not taxed, and this applies to both individual income taxation and firm-level taxation [Litwińczuk and Karwat 2008, 22].

3. HISTORY OF PERSONAL INCOME TAXATION (SELECTED ISSUES)

The breakthrough moment in the history of public tribute was the introduction of income tax in England. As we can see, income tax is quite a new invention. General taxes were of property type, consisting in taxing the whole property possessed by someone or its elements. Because such taxes are simple and easy to use and because taxpayers find it more difficult to hide their real estate than other taxable objects, such taxes did not require any complex tax machinery or extensive knowledge of tax collectors (officials). The forerunner of contemporary income tax was the tax imposed in England (except for Ireland) to finance the war with Napoleon, in 1799 by prime minister William Pitt (younger). When introducing this form of taxation, the argument went that it was only temporary and it would be repealed once the war was over [Gomułowicz and Małecki 2011]. The state actually resigned from collecting this tax voluntarily only once – in 1802, after finishing the war with Napoleon, Great Britain abolished this tax, after signing the peace treaty in Amiens, but for a very short period of time, as in 1803 the tax appeared again in the public tribute system at the level of 5% (the income obtained from this tax was at the same level as when the rate was 10%, this was possible by lowering the lower limit from 60 to 50 pounds which doubled the number of taxpayers). In 1806 the 10% rate was reintroduced and it was kept until 1816, when the tax was repealed again by the Parliament, a year after the battle of Waterloo, with 231 votes for and 201 against. After abolishing the tax all the data concerning taxpayers was burned (as it turned out later, copies were stored at the archives – *King's Remembrancer*). For the next 26 years the English system of public tribute did not comprise personal income tax [Simon and Nobes 2012, 10–50; Krajewska 2012, 80–105; De Spenke 2011, 8–31; Zee 2005, 3–58].

The income tax introduced then had been reformed, compared to the 1799 construction, and evolved into historically the first type of income tax, the so-called scheduler tax (analytical). The construction of this tax divided all incomes into 6 schedules – groups (using property, capital, free economic activity, other capital incomes, salaries, wages), divided into 16 categories and assessed in different techniques, which all made up a single income tax, supplemented by the progressive surtax on part of the income which exceeded the statutory minimum level. As a result of these reforms and changes, income tax has been – since 1842 – fiscally the most efficient source of budget income and the most important tax in the English tax system [Wołowiec and Bogacki 2020, 7–32; Żyżyński 2009, 202–27].

The first attempts at introducing this tax in the USA were made in 1812. The British Act from 1798 was followed. Tax rates of 8% and 10% were determined (respectively for incomes exceeding 60 pounds and exceeding 200 pounds). The legislative work had nearly been completed when in 1815 the peace treaty in Ghent was signed and there was no need to introduce this tax any longer. Just as in case of Great Britain, income tax was introduced in 1961 to finance the war operations (Civil War in the United States). Enormous time pressure to find additional sources of budget income did not allow further discussion on the sense of introducing this tax. The tax Law was signed by President Lincoln on 1st July 1982. It imposed a 3% tax on incomes above 600 dollars and 5% on incomes above 10 000 dollars. In 1864 tax rates were increased and the Americans had to pay a 5% tax on incomes above 600 dollars, 7.5% on incomes above 5000 dollars and 10% – above 10 000 dollars. The original construction of the American income tax had low tax rates, simple structure and a large amount of non-taxable income.

Italy introduced income tax in 1864, Germany in 1891, but the German construction of income tax was different from the concept of English scheduler (analytical) tax. Scheduler tax is a type of taxation consisting in separate taxation of each type of taxpayers' incomes. It allows to prefer some while discriminating other types of income by establishing differentiated scales of taxation and rates. However, it makes it difficult to use the progression with reference to taxpayers who obtain their income from a few sources. In 1891 the so-called global income tax was introduced in East Prussia. It covered the whole income of an individual, regardless of its origin. In the global tax there is no division of the tax base into incomes from particular sources, the base is just the sum of all incomes. The tax base in this system was the so-called net income, though in some cases (for example in case of taxing labor and running own economic activity) the way of establishing income from particular sources of revenue could differ. Austria introduced global income tax in its lands in 1896–1898. The Polish state income tax before the 2nd world war as well as the present personal income tax are also global in nature. Other European countries also started to introduce income taxes into their tax systems trying to obtain additional income to finance expenditure during the 1st world war.

In France and the Netherlands the income tax was introduced in 1914, in Belgium – in 1919. In France several sources of revenue were differentiated. They taxed revenues from labor and remunerations and social benefits, industrial and commercial incomes, incomes from farming, revenues from movable capital and revenues from real estate. Each of these categories was taxed separately and proportionally. The universal income tax was introduced in 1917 and was a progressive tax. In 1948 personal income tax was divided into two parts, combining two tax solutions from 1914 and 1917. The proportional rate was applied to particular categories of incomes and revenues, in line with the 1914 solutions (global income tax) and an additional progressive rate was introduced, as in 1917 (scheduler taxes). After the reform of the tax system carried out in 1914–1917, the non-fiscal function of the income tax increased due to the introduction of various solutions taking into account the family and personal situation of a taxpayer. It was not until 1970 that the taxation of particular revenues was unified, integrating legal solutions into general personal income tax [Wołowiec 2016, 100–15; Idem 2020, 545–63].

4. THE CONCEPT OF INCOME

The concept of income was of vital importance in the development of income tax. We can differentiate two basic concepts of income. The first one is the concept of the theory of revenue sources focused on regular inflow of economic value from particular sources, historically linked to the English income tax. According to this theory, taxable income is a regular surplus coming from regular sources. A much broader concept of income is offered by the theory of net asset growth which combines taxable income with the growth of economic ability to spend the income, whether it is regular or one-off. The essence of this theory is the economic ability of a given individual obtained in a specified period of time and calculated by summing all net revenues (incomes) and benefits, even one-off ones (such as donations, lottery wins, etc.), obtained in one tax year. The presented theories significantly influenced the development of particular types of income tax [Leszczyłowska 2014, 7–40; Wójtowicz 2003, 184–94; Joumard 2002, 91–151].

Summing up our presentation of historical evolution of income taxes in the system of public tributes, we can differentiate three basic types of tax: Roman (mixed), German (global) and British (scheduler). The Roman type was a historical transition from revenue tax to income tax. Its specific feature lies in the fact that particular parts of income are first placed in tax schedules and are taxable according to the progressive or proportional rate, and then the general income is established and taxed according to the progressive rate. This type of income tax can be found mostly in tax systems of France, Italy, Belgium or Portugal [Messere 1998; Litwińczuk 2008].

Also the Polish income tax paid in 1950–1971 by individuals and legal entities which were not units of social economy was of this nature. After tax reforms in 1962, 1963 and 1974 this taxation evolved into the German type of income tax. The German type of income tax originated in East Prussia and then spread into the Netherlands, Switzerland, Austria and Scandinavian countries. In this system the tax is collected from global (general) income, regardless of the source of obtained revenues, using the progressive tax rate. In the British (scheduler) type of income tax, income is not determined globally, but partial incomes are summed, specifically defined in the so-called schedules. The sum of partial incomes gives the total (consolidated) income. Partial incomes are taxed according to proportional or progressive rates. The tax collected from scheduler incomes is treated as an ordinary tax, contrary to the tax collected from general income using the progressive rate, which is then treated as an additional tax. Schedules determine particular incomes very casuistically, and then, within them further (detailed) division of incomes into particular groups takes place.

The evolutionary development of income tax has led to the development of several specific features dominating contemporary tax systems. The first one consists in basing the income tax construction on the theory of net asset growth, which offers its broad understanding, and, which is connected, adapting global income as the basis for taxation (freeing taxation from sources of obtaining revenue). A contemporary version of the theory of net asset growth is the theory of market income (originating in the German tax doctrine), according to which the income of a particular entity is the asset growth generated and performed by this entity. This means that income is generated only in the economic turnover, as an effect of human work, investment of capital, thus excluding inheritance, donations and other extraordinary incomes. In taxation practice, some elements of the theory of sources are also used, by excluding incomes obtained from determined sources from general income and taxing them according to a separate tax rate (usually the proportional one).

Income tax based on the theory of sources (scheduler) offers far-reaching possibilities of individualizing (personalizing) taxation by determining its size to not only the size of incomes but also to their sources. This is especially visible in the British income tax. The concept of this tax is closer to the essence of income tax than the concept of tax based on the theory of net asset growth, which offers possibilities of implementing the principles of equality and tax justice. In the 20th century, in an attempt to implement these principles, revenue taxes were being replaced with income taxes. The advantage of scheduler income taxes is that they allow to adjust the taxation method and tax rates to the nature of particular income groups. This construction provides generally milder taxation of incomes obtained from work (not funded incomes) than incomes on capital (funded incomes). Using the scheduler taxation we can achieve graduation of tax burden with reference to incomes coming from various sources and to implement the policy of the so-called just taxation [Aksman 2002, 555–73; Bradley 2004].[1]

A drawback of scheduler systems is that they do not take into account the whole financial situation of a taxpayer, that is his ability to carry the tax burden imposed on them. It is not possible to rationally personalize scheduler taxes by applying various reliefs related to particular family burdens of a taxpayer. That is why we can now witness a diversion from constructions based on a classic scheduler tax and movement towards mixed tax, in which proportional scheduler tax on particular categories of income is supplemented

[1] See Inventory of Taxes in the Member States of the European Union, European Commission, Luxembourg 2010–2020, 467.

with global (unified) tax which progressively burdens the sum of taxpayer's incomes [Kalinowski 1996, 46–50]. Moreover, scheduler tax is extremely complicated, which contradicts the requests for transparency and clarity of taxation and, due its specific structure, brings significant costs of imposing and collecting tax. From this perspective, a more appropriate construction is that of income tax based on the theory of net assets growth (global – unified – income tax). Historically this tax covered generally the whole income of an individual, regardless of the type and source of obtaining income (characteristics of particular income groups). In the construction of global (unified) tax there is no preliminary taxation of incomes from various sources, and the tax basis is a sum of incomes, however this can be calculated in different ways. Although the taxation basis was the so-called net income, in some cases (for example taxation of labor and economic activities conducted on one's own), the method of determining incomes from various sources can be differentiated.

Global, unified income tax is a construction that is widely used in OECD countries. In the European Union, the last countries which adopted the system of global tax in 1973 were Great Britain and Italy. The construction of the global (unified) tax is more universal, as its basic elements can be applied to taxation of individuals' incomes and to legal entities incomes. Obviously, adoption of the concept of net asset growth (global income) as a prevailing concept is not tantamount to the elimination of the principle of personalizing taxation. The concept of taxing global income best implements the principle of taxing a taxpayer according to their income potential, accumulating all revenues of a taxpayer from all possible sources, providing a full picture the taxpayer's material situation [O'Donoghue and Sutherland 1998; Torres, Mellbye, and Brys 2012, 1–56]. Personal features of income tax are exposed, using the construction of the so-called existence minimum, using social and extraordinary reliefs, differentiating tax burden with the progressive scale, depending on the size of the obtained income. Personal features of global tax are also implemented by using certain elements of the theory of sources of taxation, in form of a separate taxation for incomes from some sources of revenue [Wołowiec and Kepa 2020, 493–518; Wójtowicz and Smoleń 1999; Messere 1998, 223]. Taxation can be applied only to such incomes which come from regular, permanent sources, which allows to separate non-funded income (from work) from funded income (from capital, assets). For example the tax on income in form of interest on bank deposits is calculated, collected and paid out by banks themselves, thus there is no collection of advance payments and its accumulation with incomes from other sources. We should remember that the current construction of the income tax based on global understanding of income tax introduces several constraints concerning the possibility of covering losses incurred in one source of income (for example: capital investment) with income obtained from other sources (for example from remuneration), therefore it is necessary to break down the total income into its specific sources [Messere 1998]. For example, many countries do not allow to join losses incurred in high-risk investment with income from other sources. Incomes and losses from this source of revenue are accumulated as a whole and, if there is surplus in form of income – it is then added to incomes from other sources of revenue.

5. PERSONAL INCOME TAX VERSUS CORPORATE INCOME TAX

Income tax is a prototype of personal tax – the tax which reflects the personal ability of the subjects on which it is imposed to pay it. For some time income tax was only paid by individuals, as taxation of individual and legal persons was based on the same principles. For example, the companies' profits were in France (until 1948 – *impot sur les societes*) and in Great Britain (until 1965 – *corporation tax*) taxed with the tax on industrial and trade profits on the same principles as individuals. What only mattered was the fact that the enterprise existed, its legal, collective or individual nature were not taken into account. The forerunner of corporate income tax (from companies) was the construction introduced into the American tax system in 1909. It was only in 1920 that the tax systems in Germany and the United States incorporated the modern construction of corporate income tax (from companies) as a separate form of direct taxation. The introduced taxation form was a classic system of taxing company profits regardless of its destination, with additional taxation of incomes in form of dividend on the shareholder's level. The same income then is double-taxed, firstly as company profit and secondly as the income of an individual. In other European countries this form of taxation developed after the World War Two. The European leader in separate taxation of individuals and companies was France, which introduced a special tax on company profits in 1948. Then the tax was introduced in Great Britain in 1965 and in Italy in 1974. Other European countries began introducing corporate income tax into their tax systems in the 1960s. [Majchrzycka–Guzowska 2011; Cuccia and Karnes 2001, 113–40; Cnossen 2001, 1–89]. The following arguments supported the introduction of separate corporate income tax [Krajewska 2012, 80–105, Messere 1998, 325–26][2]: 1) it reduces disruptions concerning the choice of legal form of conducting business activity (companies versus individuals); 2) with reference to companies, it is impossible to use the elements of personalization, that is adjusting its construction to the individual features of a taxpayer; 3) legal persons have better paying capacity, as concentration of capital allows them to extend the size of a venture, to achieve economies

[2] KPMG's Individual Income Tax and Social Security Rate Survey 2010–2019, KPMG, Swiss 79.

of scale and to improve competitive position compared with other business entities run by individuals; 4) legal persons (companies) are not burdened with handing over property when the owner dies, which increases their income (tax) capacity.

It should be remembered that the most significant features of income tax are revealed in taxation of individuals. It is a tax which best implements the principle of taxation equity, through the idea of taxation equality and universality, both in the subject and in the object aspect (tax ability to pay). The taxation of companies with income tax is a controversial issue. In case of legal persons we cannot talk of "personal paying capacity," they do not have personal needs, they do not have income "for themselves," they are only representatives of individuals. Even in conditions of tax progression there is no possibility of justifying it in the context of the theory of equal sacrifice and softening the effects of indirect tax regression [Torres, Mellbye, and Brys 2012, 1–56].

The capacity to pay tax in case of legal persons boils down to the economic capacity, assuming that taxation cannot lead to limiting the productivity of tax sources – in the short term it should not limit economic development, in the long term – it should be conducive to this development. Therefore the measure of tax capacity of a legal person is not the income that an individual is left with to satisfy their needs, but the profitability understood as a relation of profit to own capital [Gentry and Hubbard 2002, 1–43; Djankov, Ganser, Mc Liesh, et al. 2008, 1–33]. Understood in this way capacity of a legal person to pay tax is firstly related to the variety of legal and organizational forms of conducting economic activity (for example taxation of single enterprises, concerns or holdings) and the purposes of their activity. Analyzing the essence of taxation of legal persons we can notice that tax burden depends on gathering (accumulating) taxable income by a legal person, not by an individual. In order to directly reduce tax burden, such legal person would have to lower its tax base. Therefore, in order to assess its own share, even regardless of its influence on aggregated investments in the legal person sector, an individual must predict how a legal person (as a company) will react to the height of tax burden. So we can state that there is an additional entity between the tax organ and an individual, an entity that makes decisions. We are then faced with the necessity to make new predictions, reflecting the processes of making decisions by companies (legal persons – "intermediary" entities), which are connected with most problems of group decision-making, as opposed to individual decision-making.[3]

The differences between taxation of individuals and corporations do not exclude certain common elements, resulting from the fact that we tax revenues obtained by particular entities in a specific time. Particularly we can

[3] Structures of the taxation systems in the European Union 2012–2020, European Commission Taxation and Customs Union – EUROSTAT, Luxembourg, 416.

notice then analyzing material and legal construction of income tax, as well as its size and collection [Feldstein 2008, 1–20; Auerbach and Hasset 2006, 1–10; Chalk 2001, 1–37].

6. INTERNATIONAL TAX COMPETITION

Assuming that in the international tax competition, the attractiveness of a particular tax system, and as a result – location of investment depends, among other things, on the level of corporate income tax rate, an alternative for lowering the tax rate is not to tax profits retained in a company (reinvested), where we tax only incomes of consumption nature ("getting out" of an enterprise). Another interesting solution may be a system of investment reliefs and exemptions. Apart from the level of effective tax rate, another essential factor may be the coherence of tax regulations and their compliance to accounting regulations (coherence of tax and balance law). International and Polish experience in using investment reliefs allow us to put forward a thesis concerning relatively low economic effectiveness of such reliefs. Costs measured by lost budget inflows are large, effects – moderate, while the greatest beneficiaries of this solution are tax advisors [Jourmard 2002, 124–25, Kesti 2013]. Tax reforms being an effect of the assessment of effectiveness of solutions applied so far and tax competition for capital, aim at lowering rates and simultaneously eliminating reliefs. As a result of such changes, tax base is expanded (shadow economy decreases), which stabilizes budget tax incomes and sometimes (in the longer run) accounts for their growth.[4] Apart from unfavorable influence of reliefs and exemptions on budget incomes from tax, we can identify several other arguments in favor of eliminating various investment preferences from the corporate income tax system [Messere 2000]. For example, differentiation of tax rates is based on the premises related to creating investment incentives.[5] However, it makes the system complicated and does not have to bring the planned effect in form of stimulated investment demand, while generating all kinds of ineffectiveness.

CONCLUSIONS

Collecting tax at source has an unquestionable advantage consisting in the fact that tax payment is made soon after the income was given to the taxpayer's disposal (paid out by the payer). Tax collected at source may be treated as a specific down-payment towards income tax. In this method, the taxpayer

[4] Tax revenue in EU Member States: Trends, level and structure 2005–2019.
[5] Price Waterhouse Coopers, 2011–2019.

is obliged to declare in his annual return form, the size of obtained income and is entitled to lower (reduce) the amount of due tax calculated in this tax return by the amount of tax that was collected at source. The tax collected at source is called "tax paid at source included." Alternatively the tax collected at source may be the final tax collected at source. In this case income recipient (taxpayer) is exempted from an obligation to submit tax declaration and from obligation concerning the amount of collected tax. Taxes collected at source usually have a fixed rate, which is applied to the revenue (not income), which means that we do not take into account any costs of obtaining revenue or personal situation of a taxpayer (income capacity). Therefore we can state that taxes collected at source are examples of scheduler taxes.

With reference to the income related to work remuneration, most countries combine both methods of collection, that is assessment and collection of tax at source, which is known as the "pay as you earn (PAYE) system." In this system, employers (payers) are obliged to collect tax at source from remunerations of their employees. Contrary to taxes collected at source, tax collected from remuneration is not collected at a fixed rate, which is typical for the system of collecting tax at source. Generally, the amount of tax collected at source from remuneration reflects personal situation of taxpayers, and the taxpayer is obliged to inform the employer (payer) of their personal situation if it affects the size of their tax burden, in order to allow the payer to apply appropriate system of down-payment collection. In a situation when the system of collecting tax from remuneration is used properly, taxpayers are exempted from the obligation to submit tax declarations, if they do not obtain any other income or if they obtain income from other sources of revenue which is subject to final tax collected at source. The right of each state to tax incomes generated on its territory is a derivative of sovereignty of this state and, in principle, is only limited by international agreements, especially agreements to avoid double taxation.

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