

International Conference On Taxpayer Rights



Criminal investigations and civil tax audits



Who decides about the tax debt?

- (!) two different administrations and courts**
- One decides about the criminal sanction, if somebody evades tax (prosecutor / ordinary court)
 - One decides about the question whether there is a tax due (financial administration / financial court)



Who decides about the tax debt?

(!) sometimes it is “only” a legal question, if a tax is owed or not -> who can decide about that ?

- The first one?
- Both, but independent?
- Only the financial administration?



Who decides about the tax debt?

(!) timeline

- Complicated legal tax question -> two instances (plus sometimes the CJEU) -> it needs time...
- Ordinary courts decided meanwhile, that there is a tax crime (sometimes with horrible reasoning)



Who decides about the tax debt?

(!) taxpayer rights?

- Tax court decides 5 years later, that there is no tax owed
- Without a tax debt there cannot exist a tax evasion
- Not every wrong understanding of tax law is a crime...



Who decides about the tax debt?

(!) solution

- If it is a new or unsolved legal question that there exists a tax owed to the state -> then the ordinary courts have to wait till it is clear, that there was a tax debt that was evaded
- Otherwise somebody is in jail “for murdering even if it is unclear that the victim is dead...”



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Thanks for your attention

