

Prof.mr.dr. Jan Vleggeert

On Independence, the Erosion of the Tax Debate, and What We Can Do About It



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On Independence, the Erosion of the Tax Debate, and What We Can Do About It

Inaugural lecture of

Prof.mr.dr. Jan Vleggeert

upon the acceptance of the appointment as

Professor of Tax Law

at Leiden University

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*Mijnheer de rector magnificus, geacht faculteitsbestuur,
zeer gewaardeerde toehoorders*

1. Introduction¹

Long ago, when I started my life as a tax professional, tax was not a topic that was discussed at dinner or over drinks. The ubiquitous requests from other guests, looking for tips to improve their own tax position, were the exception to the rule. Nowadays, things are very different. Everyone seems to have an opinion, for example, on the dividend withholding tax, and more specifically, whether it should be abolished, or about the letter-box companies on the Zuidas², and about multinationals that pay too little corporate income tax. Due to this increased attention for the field of tax law, the professionals working in this area have come under the spotlight. Can academics who also work for a commercial firm, remain independent? How do tax academics see the contribution made by ordinary citizens to the debate on tax avoidance by multinationals? And which conclusions can we draw from this? These are the questions which I would like to discuss with you today.

2. Double-hats

The first issue which I would like to discuss with you, is that of the so-called 'double-hats'³. For those members of the audience who are not tax specialists, this refers to colleagues who combine a role as a professor of tax law at a university, with a job at a tax advisory firm. Can double-hats remain independent, or will they – in the words of Zwemmer (emeritus professor of tax law at the University of Amsterdam) – “sooner or later nevertheless be confronted with the dilemma that something which they [want or need] to say, [might] be contrary to the interest of a client”?⁴ The views on this differ significantly.

The general opinion in the world of tax academia, is that the independence of the double-hats is sufficiently safeguarded.

This is clear from a recent article that was published with the cooperation of no fewer than 23 employees, including 13 professors, from all Dutch university departments of tax law, except the tax department at Leiden University. According to the authors of this article, an academic who fails to separate his or her 'hats', immediately loses his or her academic credibility. Of course, the authors note, “different roles can create tension and friction. We hold the view that this is, at the end of the day, a question of the intrinsic professional and academic integrity of the academics concerned. We believe that integrity is ‘within’, and is not related to whether or not someone has an ancillary function.”⁵ Kavelaars (professor of fiscal economics at the Erasmus University Rotterdam), furthermore points to the positive effect of double-hats, namely that they can strengthen one and other. Combining a job in tax practice with an academic role improves research, as it contributes to a much better weighing of “the advantages and disadvantages of the feasibility and practicability of academic approaches and doctrines. (...) In the context of teaching activities, the effect of theories, rules and doctrines, can also be proven in a way which is beneficial and useful, using examples from real-life cases.”⁶ Nevertheless, he notes that it is better to avoid certain topics in certain situations, although he has never felt restricted with regard to his own choice of topics.⁷ Gunn (independent tax specialist and guest lecturer at several universities), is more critical. She points to the risks of lacunae in the collective knowledge about tax law, if authors systematically avoid certain topics. She cites fiscal State aid law as the prime example of a situation whereby a development which is bad for taxpayers, is kept under wraps.⁸

However, even when topics are addressed, conflicts of interest pose a threat. Pieterse (affiliated to the Leiden University and the Vrije Universiteit Amsterdam), notes that the field of tax law is not exactly brimming with independent and truly free spirits.⁹ The practitioners of this *métier*, writes Pieterse, “tend to be part of a network where interests, which cannot be regarded as *academic* interests, consciously or unconsciously,

carry a lot of weight. The fruits of this discourse (publications, commentary on legislative proposals, etcetera) testify to this fact.”¹⁰ De Smit (affiliated to the Dutch General Audit Office (*Algemene Rekenkamer*) and before that to the Erasmus University Rotterdam), notes that “a judgement of the Dutch Supreme Court which is beneficial to taxpayers, is generally received favourably – including in the Dutch Journal of Tax Law (*Weekblad fiscaal recht*) – often by authors who, whether or not in their capacity as professor, or in any case the occupants of a University Chair, are affiliated to one of the (big) advisory firms.”¹¹ The opposite is also the case, according to De Smit: judgements in which the Dutch Supreme Court limits the possibilities for multinationals, can expect a critical hearing. Spanjers (PhD candidate at Leiden University and publicist), is also critical of double-hats. He describes a hearing in the Dutch House of Representatives, held at the end of 2017, on the matter of the abolition of the dividend withholding tax, as follows: “In the second part, five professors joined the table. I found it noticeable that three professors with a commercial interest in the international tax advisory practice, were very much in favour of abolishing the dividend tax. (...) Two professors without such a commercial interest were by contrast vehemently against the proposal. Coincidence? Possibly, but it still leaves a bad taste in the mouth. And not only in mine.”¹²

The problem of double-hats is now also on the political radar in The Hague. On May 21, 2016, the *Volkskrant* newspaper writes that three quarters of the professors of tax law and fiscal economics have an ancillary function at a law or accountancy firm. Following this publication, Van Dijk and Merkies (both Members of the Dutch parliament for the Socialist Party (SP)) ask the then Secretary of State for Finance (Wiebes), whether this constitutes a risk of conflicts of interest. Wiebes, who at the time was a member of government, is, however, not afraid of this. Admittedly, it is not possible to rule out the risk of conflicts of interest completely, but – in his view – there are sufficient checks in the system to ensure that professors maintain their independence: “After all, professors are required

to follow the rules set out in the Dutch Code of Conduct for Academic Research (...). Furthermore, they are required to specify their ancillary functions on the website of the University.”¹³

A year later, the tone has changed drastically. During a debate on the tax agreements with multinationals, Van Weyenberg (Member of Parliament for D66) poses a question about the composition of the committee which will investigate these agreements: “Why did it not include one or two professors (...)?”¹⁴ Secretary of State Wiebes then asks out loud: who should this have been? To quote the Secretary of State: “In that case, you would want a person who is explicitly independent, a real top tax specialist who is independent. Let’s have a look. We can start with the advisors. Any volunteers? I don’t think so. In that case, let’s start with the professors. Apparently, there are still a few tax professors in the Netherlands who are not affiliated to an advisory firm. So perhaps we should look at the tax specialists of the lobby groups. That’s it. I’m all out of tax specialists.”¹⁵ Van Weyenberg then acknowledges that it is difficult to find independent professors, but that: “they do (...) exist, and I think that is what we should be searching for.”¹⁶

A few weeks later, the public hearings of the parliamentary hearing committee for Fiscal structures take place. During one of those hearings, Bruins (Member of Parliament for the ChristenUnie) asks Freudenthal (partner at Mazars and professor of tax law at the University of Groningen), whether he thinks that there are many double-hats. To quote Freudenthal: “Yes, there are many. They exist within the Tax Authorities, where professors have dual functions. They exist within the tax advisory practice in exactly the same manner. There are still some independent professors, but the Ministry of Finance often requests their help in supporting certain processes. They are not independent either. In all honesty, I think that independence, which may be desirable in the ideal world, does not exist, or that everyone manages to safeguard their professionalism so well, when it comes to their work

and their professorial activities, that things work out well in practice. I think that the latter is the case.”¹⁷

What I find noticeable in this answer, is the statement that independence as such does not exist. Although some professors are, according to Freudenthal, independent in the sense that they are not affiliated to an advisory firm or the Dutch Tax Authorities, they too are ultimately not independent, for example because they assist the Ministry of Finance. If these professors were employed by the Ministry, or provided support in exchange for a remuneration, Freudenthal would certainly have a point. However, in my experience, this would not, as a rule, be the case. What does happen with some frequency, is that independent professors are asked by the Ministry of Finance or the European Commission to give their opinion on a particular issue. I do not think that this makes these professors less independent. Furthermore, it is becoming increasingly common for independent professors to bring Members of Parliament up to speed, and sometimes even to assist Members of Parliament with submitting legislative proposals. I do not see why this should diminish the independence of these professors. Supporting Members of Parliament is not the same as a conflict of interest. Unlike the double-hats, an independent professor who prompts a Member of Parliament, will never have a commercial interest in what he or she is suggesting.

I started this reflection on double-hats with the observation that the mainstream opinion in the world of tax academia, is that the independence of double-hats is sufficiently safeguarded. There is, however, every reason to doubt this view. Some topics are not discussed (sufficiently) in tax literature, presumably because it is better, from a commercial perspective, to leave these topics undiscussed. Furthermore, I cannot help but notice that professors with a commercial interest remarkably often take a position which is in line with the interests of clients. There is room for further investigation into the extent of this problem.¹⁸ I am also thinking of the

students in the audience, as this strikes me as a good topic for a master thesis. My suggestion would be to screen all of the publications by Dutch tax professors over roughly the last 10 years, and to determine how often they support positions pro and contra taxpayers. In addition to this, it could be established which topics are addressed, in order to determine how often certain topics are dealt with (and which topics are, by contrast, not discussed). In the meantime, we can already conclude that double-hats, and by association fiscal academia as such, are not viewed favorably in political circles. This is something of an understatement. There are enough reasons why we should not look the other way. We need to acknowledge that combining different hats is problematic. For the tax professors of the future, one ‘hat’ will be sufficient, namely the academic one.

3. Erosion of the tax debate

Double-hats are not the only factor contributing to the erosion of the tax debate. Gunn notes that it can be difficult for tax advisors and civil servants to publish their views without prior permission from their employer. Points of view which are disadvantageous for a certain group of companies or for the employer may, for example, not make the cut. She writes: “In my own area of expertise (fiscal State aid) I see an illustration of what happens when a topic is declared more or less taboo: the development of tax theory is thwarted and taxpayers may end up paying the price. The reference to a ‘taboo’ is based on firsthand knowledge. There can be informal pressure to not address certain topics because that would not be “appropriate”.”¹⁹ Gunn is not alone in identifying this problem. This is clear from a report on a debate about tax planning. During this debate, a question arose about how much room young tax specialists, working for a big firm, have when it comes to publications and in particular with regard to ethical issues. According to Herreveld (partner at Mazars), this can be difficult: “An employee who expresses himself too boldly and adopts a position that is unwelcome to the tax firm, should (...) expect a disciplinary conversation

(...), that is if the publication has managed to slip through the nets of the organisation.”²⁰ In a report of a national meeting for PhD students in 2015, Pieterse remarks that “no small number of academics (...) are so closely involved with commercial tax practice, that they are essentially no longer free to independently evaluate developments in (international) tax law, even if they themselves sometimes think that they are (...).”²¹ Pieterse also writes: “It may also be the case that the findings of research are incompatible with the interests of the organisation to which the PhD supervisor is affiliated. This can lead to uncomfortable situations. Somehow, there is pressure (mainly) from large organisations which impacts the free academic pursuits of PhD students and others who publish their ideas. The Ministry of Finance has, for example, proved extremely effective in influencing its employees, especially in areas which are politically sensitive. This became clear during one of the discussions. That makes one think.”²² From this, Jansen (member of the Dutch Council of State and head of the editorial board of the Dutch Journal of Tax Law), concludes that fiscal academia has failed when it comes to, in particular, the discussion on international tax avoidance.”²³

The discussion on international tax avoidance erupted in the wake of the global credit crisis. The measures which States took to combat this crisis, of course, needed to be financed, amongst other things using taxpayers’ money. Against this background, the position that citizens must simply pay taxes whereas multinationals can avoid tax in numerous ways, was no longer tenable. Furthermore, as Kingma (lecturer in tax law at Maastricht University), notes: “tax scandals increasingly gained media attention, which meant that a wider audience became aware of the tax practices of multinationals and wealthy individuals. More and more, civil society started to participate in the tax debate.”²⁴ Snel (tax advisor) also noted that advocacy-groups such as Tax Justice International, SOMO and Oxfam Novib, have become active. He argues that: “the contributions which such groups have made to the public debate (...) have certainly been influential. They have also

meant that discussions have taken place involving a wider audience than just that of tax professionals.”²⁵ Essers (professor of tax law at Tilburg University and a member of the Dutch Senate for the CDA) does see the importance of the so-called non-governmental organisations (referred to as ‘ngo’s’) but is less positive about their contribution to the debate. He speaks of “the sentiments against ‘aggressive’ tax planning by multinationals, which have been fueled by amongst others ngo’s (...).”²⁶, adding that “modern media provide populists with many more possibilities to fan the flames of citizens’ discontent even further.”²⁷

And this brings us to a new participant in the tax debate: the general public. For roughly ten years, taxation in general and the tax treatment of multinationals in particular have been of growing interest to politicians, journalists and the general public.²⁸ Many tax specialists find this problematic, because you – I mean in particular those members of the audience who have no background in taxation – do not understand the field of taxation. In this regard, Hein (affiliated to Tilburg University as a researcher), notes that the public’s interest in taxes is not altogether pleasant for tax specialists: he is increasingly concerned about the quality of the public debate on taxation. In his eyes, newsworthiness all too often takes precedence over facts, as does the political importance over the content.²⁹ Zoetmulder (tax advisor and the chair of the Dutch Association of Tax Advisers) also reprimands the fiscal layman, during a speech in 2019. I quote: “I hope that there are also some politicians and journalists present, in this place there should be, as what I am about to say is also aimed at them. There is something very badly wrong with the communication surrounding tax issues. The tax specialists amongst you will probably have noticed the tone of the headlines in the newspapers, and – like me – you are probably wondering where the nuances can be found. On social media, however, there seems to be little room for nuances and tax technical analysis, and perhaps it is the case that the newspapers now only sell if they have screaming headlines.”³⁰ Likewise, Van

den Hurk (tax advisor and professor at Maastricht University) does not hold back. I quote: “If, like me, you are involved with international taxation, and often feel the need to respond to politicians who have, as it were, heard the words without understanding the message, you need to be careful not to become a pariah. As we still don’t have a ‘Tegenpartij 2.0’³¹ which can address the *non sequitur* reasoning of Dutch politicians in the appropriate, sharp manner, I’ll just have to take that chance. A new Jacobse and Van Es³² would know what to do. The *non sequitur* reasoning contains half-truths and empty phrases, which are not at all helpful.”³³ Hein also sees no reason to hold back, when he states that it is time for an “Authority for Truthful Journalism and a Watchdog for the Integrity of the House of Representatives.”³⁴

Looking at the statements made by these tax specialists, it is noticeable that they reproach journalists, politicians, ngo’s and the public, i.e. the ‘fiscal layman’, on two points. These are firstly, that the fiscal layman does not stick to the facts, and secondly, that the fiscal layman has received no education in the area of tax law, meaning that he or she is incapable of understanding the facts.

There are certainly examples of fiscal laymen who do not stick to the facts, and who take a wrong turn. However, my own experience with journalists and politicians is much more positive.³⁵ I do not have the impression that they set out to stretch the truth. In any case, it is too easy to write off the discussion about tax avoidance by multinationals as ‘fake news’. By now, it can hardly be denied that we are looking at a real problem.

Then the second objection, i.e. that the fiscal layman does not know enough about taxation for a balanced assessment of tax avoidance by multinationals. What this objection boils down to, is – again, I am looking at the members of the audience without formal fiscal training – that you should first follow a crash course in tax law. Until you can explain to me how the

counterevidence rule of Article 10a of the Dutch Corporate Income Tax Act of 1969 works, you are not sufficiently qualified. Until then, you cannot participate in our debate. As you can see, I consider this objection to be wrong. Wrong, not only because some ngo’s, journalists and politicians do study the tax rules, sometimes with the help of tax specialists,³⁶ but above all because it suggests that the objections which fiscal laymen have to tax avoidance by multinationals, would vanish, if only the fiscal laymen knew more about tax law. This is a misunderstanding, as Gunn has also noted. I quote: “Alas, this approach is wishful thinking, not in the last place because it (...) narrows the debate down to a mainly technical discussion while (...) in reality, it has a political (and therefore normative) dimension. The central question is not: ‘How does the tax system work?’; but: ‘How should the tax system work?’”³⁷ It is quite right that ngo’s, journalists and politicians are asking what the international tax system should look like.³⁸

4. What can we do about this?

To my mind, the most important topic for fiscal academia in the Netherlands over the coming years, is independence. Many fiscal academics have a small appointment at a university and in addition to this work for an advisory firm. This does not only lead to an approach which is centered on tax practice, but also leads to a client-focused perspective. The latter can be regarded as problematic from an academic point of view, as it results in a client-focused approach becoming dominant in terms of both research and teaching. This is, in my view, undesirable. One solution would be to attract more academics who are also affiliated to the Tax Authorities or the Ministry of Finance. If nothing else, this would promote the diversity of opinions. What would, however, be problematic, is that employees of the Tax Authorities, as I see it, cannot or may not freely publish their views on tax issues. For this reason, I would prefer to try and attract more full-time employees to the University.

Another theme is the erosion of the tax debate. Tax specialists need to take the societal discontent about the taxation of multinationals, and the role played by tax specialists in this regard, seriously. The tax departments at the Dutch universities have a part to play. Most of our students find their way to the tax advisory practice. In recent years, there has been increasing criticism by the public of precisely this practice, because tax advisors play a large part in the tax avoidance structures of multinationals. In my view, this exposes us to the criticism that we are educating students, using public funds which have been paid for by society, who then go on to do work that a large part of society considers undesirable. We need to address societal dissatisfaction. In recent years, we have started to do this, by paying more attention to the ethical aspects of taxation as part of the curriculum. But it seems to me that we can go further. In addition to this, our research will, to a much greater extent than is currently the case, have to show that we are sensitive to society's criticism of tax specialists. At the moment, our research is, furthermore, rather scattered. In the past, we have tried to focus more on the discussion surrounding tax avoidance by multinationals, but this has only succeeded to a limited extent. I would like to focus much more on this topic. This topic is in line with the project led by Mosquera Valderrama (affiliated to our department as Associate Professor), which in particular is focused on the governance side of these themes, and is in line with my own research focus, and with the research which is being carried out by a number of PhD students. The research carried out by Van de Streek, who will be joining us per 1 January 2021, addresses the same subject matter. In 2019, he initiated the "Fiscale Transparantie" (*Fiscal Transparency*) project, which is about tax competition between States, one of the main causes of tax avoidance by multinationals. If we combine our strengths, I am convinced that we will reach meaningful outcomes.

Notes

1. Jan Vleggeert's inaugural lecture was held in Dutch ('Over onafhankelijkheid, de verschraving van het fiscale debat en wat we daaraan kunnen doen'). The English translation was provided by Gunn Tax Communication B.V. Please note that the original language of all of the quotations in the lecture is Dutch.
2. The Zuidas is the Dutch financial district.
3. The term 'dubbele petten' could be translated as e.g. 'conflicts of interest', 'dual role' or 'wearing two hats'. The translator has, however, opted for the term 'double-hats' as it is closer to the Dutch term.
4. J. Zwemmer in H. Bergman, *Zestig gezichten van de Nederlandse fiscaliteit, de Nederlandse Orde van Belastingadviseurs 1954-2014*, 2014 Edam, p. 126.
5. E. Boomsluiters, C. Hofman, *Ethiek, een gezamenlijke verantwoordelijkheid*, in: H. Gribnau (red.), *Tax governance, maatschappelijke verantwoordelijkheid en ethiek. Tijd voor een code? Oktober 2020*, p. 13.
6. P. Kavelaars, *Transparantie is geen probleem*, WFR 2016/125. See also: L.J.A. Pieterse, *Boekbespreking van 'Tweehonderd jaar Rijksbelastingen' onder redactie van H. Vording*. Verschenen bij Sdu Uitgevers, Den Haag 2015, 285 p., WFR 2015/1466, par. 2: "These specialists will bring a fresh perspective from tax practice, and can prevent the university from becoming a closed stronghold."
7. R.K. Bane, *Verslag van de tweede jongerenbijeenkomst van de Vereniging voor Belastingwetenschap, gehouden op 12 maart 2020 te 's-Gravenhage*, WFR 2020/83, par. 2.4. It transpires from the same report that Lubbers too has always been able to write about the topics about which he wanted to write: "Whether this is a problem, also depends on the topic about which one writes. Lubbers indicated that this problem would occur less often with a procedural topic than with a topic involving substantive law."
8. A.F. Gunn, *Ethiek: Dubbele petten en de belastingwetenschap*, in: Anders: Gunn, Stichting NLFiscaal, Amsterdam 2020, p. 31/32.
9. See also: L.J.A. Pieterse, *Boekbespreking van 'Tweehonderd jaar Rijksbelastingen' onder redactie van H. Vording*. Verschenen bij Sdu Uitgevers, Den Haag 2015, 285 p., WFR 2015/1466, par. 2.
10. L.J.A. Pieterse, *Boekbespreking*, WFR 2013/1304.
11. R.C. de Smit in: L.J.A. Pieterse, *Tax planning, een bedenkelijke activiteit? Over BEPS, rulings en fiscale dienstverlening*, Verslag van 'WFR Fiscaal Café', gehouden op dinsdag 19 januari 2016, te Den Haag, WFR 2016/54, par. 3. Pieterse notes that this hypothesis seems ripe for testing.
12. M. Spanjers, *Origami en de dividendbelasting*, WFR 2018/13.
13. *Kamerstukken II 2015/16, Aanhangsel van de Handelingen*, 2890, p. 2.
14. *Kamerstukken II, Handelingen*, 1 juni 2017, 82-8-9.
15. *Kamerstukken II, Handelingen*, 1 juni 2017, 82-8-28.
16. *Kamerstukken II, Handelingen*, 1 juni 2017, 82-8-29.
17. Stenographic report of the public hearings of the parliamentary hearing committee for Fiscal structures on 15 June 2017, interrogation of R. Freudenthal, *Kamerstukken II 2016-2017*, 34 566, nr. 4, p. 768/769.
18. See also: E. Berkhout, *Band tussen belastingadvieswezen en wetenschap is onvoldoende transparant*, WFR 2016/124.
19. A.F. Gunn, *Vakliteratuur, diversiteit & dubbele petten*, in: Anders: Gunn, Stichting NLFiscaal, Amsterdam 2020, p. 51.
20. See the report of the 'WFR Fiscaal Café', on Tuesday 19 January 2016, in The Hague, by L.J.A. Pieterse, *Tax planning, een bedenkelijke activiteit? Over BEPS, rulings en fiscale dienstverlening*, WFR 2016/54, par. 3.
21. L.J.A. Pieterse, *Samenscholen voor gevorderden, Verslag van de landelijke bijeenkomst voor promovendi van de Vereniging voor Belastingwetenschap, gehouden op vrijdag 27 maart 2015 te Leiden*, WFR 2015/601, par. 3.
22. L.J.A. Pieterse, *Samenscholen voor gevorderden, Verslag van de landelijke bijeenkomst voor promovendi van*

de Vereniging voor Belastingwetenschap, gehouden op vrijdag 27 maart 2015 te Leiden, WFR 2015/601, par. 3.

23. See: L.J.A. Pieterse, Tax planning, een bedenkelijke activiteit? Over BEPS, rulings en fiscale dienstverlening, WFR 2016/54, par. 3.
24. S. Kingma, Op naar een meer legitiem belastingsamenwerkingsmodel?!, MBB 2020/3-11, par. 1.
25. F.P.J. Snel, Het vak in verandering, NTFR 2019/816, par. Waar komt de verandering vandaan?
26. P.H.J. Essers, Belastingverzet, WFR 2019/86, par. 6.
27. P.H.J. Essers, Belastingverzet, WFR 2019/86, par. 6.
28. See also: S. Douma, Miscommunication and Distrust in the International Tax Debate, Wolters Kluwer Deventer 2018.
29. R. Hein, Belastingrecht: te moeilijk voor niet-fiscalisten?, WFR 2019/261, samenvatting.
30. B. Zoetmulder, Bartjan Zoetmulder pleit voor fact-checking door politici, NFLO 2019/10. The same approach is taken by: Brunner (tax advisor), who notes that the discussion must take place on the basis of “the right facts and the whole picture”. Unfortunately, this does not happen, in his view: incorrect facts are frequently presented and relevant facts are omitted. S. Brunner in H. Bergman, De juiste feiten en het volledige plaatje, s.v.p., WFR 2020/42. In this regard, see also: H.J. Bresser, De fiscale waan van de dag, NTFR 2019/1679 and S. Faber, Op weg naar balans in de vennootschapsbelasting?, WFR 2020/84, who notes that the majority of the criticism of the Netherlands as a ‘financial turntable’ is ‘fake news’.
31. De ‘Tegenpartij’ (lit. Counterparty) is a fictional political party, in a television show. See for more information: <https://en.wikipedia.org/wiki/Tegenpartij>
32. Jacobse and Van Es are the founders of the Tegenpartij (see footnote above).
33. H.T.P.M. van den Hurk, De liquidatieverliesregeling kost niet alleen geld, NLFO 2019/23. It can be even worse, see: F.R. Herreveld, H.T.P.M. van den Hurk, Naschrift bij V.S.T. Leenders, Noblesse oblige: de rol van

belastingadviseurs bij de fiscale integriteitsrisico’s voor banken en trustkantoren, WFR 2019/171, who refer to the concept of “gesundes Volksempfinden”: “We use this loaded term on purpose, as it is a German term, the meaning of which shifted from “common sense” in the age of Romanticism to a National Socialist concept whereby “healthy” popular opinions (according to Nazi standards) derogate from legal provisions. However loaded this term may be, it seems to apply to the discussion about the lawful avoidance of taxation.”

34. R. Hein, Belastingrecht: te moeilijk voor niet-fiscalisten?, WFR 2019/261, par. 7.1.
35. In Maatschappelijk ongemak, NTFR 2020/2161, A.F. Gunn rightly notes that the public debate is impeded by the fact that a lot of information about taxation of multinationals is not in the public domain.
36. The same approach is taken by A.F. Gunn, Links, WFR 2019/181.
37. A.F. Gunn, Nederland belastingland, NTFR 2016/644.
38. See in this regard also: C.A.T. Peters, The faltering legitimacy of international tax law, CentER Dissertation Series (nr. 361), Tilburg 2013.



Education

- Tax law at the Rijksuniversiteit Leiden (1979-1985)

Doctoral research

Defended his PhD thesis at Leiden University on 23 June 2009, entitled: 'Interest deduction restrictions in international tax law'.
Doctoral supervisors: prof.mr. F.A. Engelen and prof.mr. R.J. de Vries.

Current position

- Professor of Tax Law (1,0 FTE) at Leiden University
- Head of the department since 1 February 2020

Research focus

My research concerns the rules for the protection of the national (corporate income) tax base, and the prevention of tax avoidance.

Previous positions

- Tax partner at PricewaterhouseCoopers (2008 - 2010)
- Inhouse tax specialist at ING Group (1996 - 2008)
- Tax advisor at Loyens & Volkmaars (1988 - 1996)
- Tax advisor at De Boer en Van Keulen (1985 - 1988)

Recent publications

- State Aid: Time to Investigate Informal Capital Rulings, paper published on SSRN on 16 September 2020.
- Polderen in de mist: een kleine stap naar meer balans in de heffing van vennootschapsbelasting van multinationals, Weekblad Fiscaal Recht, 2020/110, p. 739-746.
- Suggesties voor grondslagverbreding van de vennootschapsbelasting, Weekblad Fiscaal Recht, 2019/190, p. 1163-1170.
- De lotgevallen van de concernfinancieringsmaatschappij: 50 jaar vennootschapsbelasting in internationaal perspectief, in T. Stevens, J.L. van de Streek, Congressbundel 50 jaar Wet VPB 1969 – de toekomst van de vennootschapsbelasting, Wolters Kluwer 2019, p. 131-144.
- Fiscale staatssteun: hoe soeverein zijn de lidstaten nog? Weekblad Fiscaal Recht 2019/2, p. 3-9.

