

Conference Report

47th Academic Symposium

on October 10th and 11th, 2024
at the premises of Swiss Life AG in Zurich, Switzerland

«Tax-Management and competition in historical perspective»

Whenever another populist victory prompts the search for root causes, one of the most consistent factors is voters' growing frustration with inequality, exemplified by the ability of multinational companies and wealthy individuals to avoid adequate taxation. Hence, as it took place just one month before the re-election of Donald Trump, the symposium proved highly topical. Using the natural advantage of the historian, participants examined various long-run trends as well as the nitty-gritty of corporate accounting that enabled lower taxation. While the practices firms employ, and the legal infrastructure that tax havens provide them with, are often complex, they have at their core a simple goal: to render parts of the company or its income invisible. The prism of (in)visibility thus helps to connect and understand the symposium's various case studies.

Significant taxation, and the efforts to avoid it, are a relatively new phenomenon, as they emerged only with the modern fiscal state during World War I. As organizer HARTMUT BERGHOFF (Göttingen) noted, pre-war states relied on head taxes and customs duties, which were harder to avoid. The war's resource demands led to new forms of taxation and higher rates, which never fully returned to pre-war levels. Neutral states like the Netherlands, Luxembourg, and parts of Switzerland capitalized on this shift by offering an alternative: low taxes, political stability, and limited inflation. The bigger this contrast, the more they would become what Swiss councilor Herman Obrecht in 1917 had called "a paradise residence for capitalists." Hence, a business model was born that would remain relevant to this day.

TOBIAS STRAUMANN (Zurich) extended this history into the 20th century, noting that political instability, particularly in Europe until 1945 and in postcolonial states after independence, exerted continuing pressure to shift assets abroad. The simultaneous pull factors came from an increasingly complicated labyrinth of tax codes, which provided ample loopholes, and from an expanding body of experts eager to exploit them. By looking at this development from a long-run perspective, both Berghoff and Straumann emphasized that historical inquiry can help to understand contemporary tax practices. This view was echoed by MARC BRÜTSCH (Zurich), chief economist of the insurance company Swiss Life, who shared how the firm's archive provided him with valuable insights during the 2008 financial crisis. Brüttsch invited researchers to explore the archive, which contains sources dating back to its founding in 1857 and is open to scholars.

Participants explored the elaborate strategies firms and wealthy individuals used to go invisible. HARALD ESPELI (Oslo) highlighted the Norwegian shipping industry's tax practices in the early 20th century, focusing on Christian Michelsen, a shipping magnate, prime minister and hero of the peaceful dissolution from Sweden in 1905. What muddied his glorious political career was a legal dispute, in which his new home municipality was sued for helping him exploit ambiguities in the tax system. Norwegian municipalities levied tax where income was generated—a rule that was notoriously hard to apply to shipping earnings. When Michelsen shifted his domicile from Bergen to tax-friendly Fana, he could argue that his income was now generated there, which reduced his levy by 6 to 8 percent. Soon after, when the Norwegian government launched a war profits tax from 1915 to 1920, shipowners avoided payments again by dissolving and reincorporating hundreds of

their companies. As the shipowners largely held unregistered bearer shares, the dissolutions made it impossible for authorities to identify shareholders on whom the tax was to be levied.

DECLAN O'REILLY's (London) case study of the German chemical giant I.G. Farben reveals how scattering a company's structure across jurisdictions can be another strategy to obscure the full extent of corporate operations. Using what O'Reilly calls "financial cloaking," I.G. Farben created a complex network of subsidiaries and affiliates worldwide. Some, like the Swiss I.G. Chemie or the American GAF, were wholly owned, while others cooperated without ownership ties. This structure allowed the company to issue bonds in one jurisdiction, funnel loans to the German headquarters, and book profits in low-tax regions. The network's complexity made it nearly impossible for any single jurisdiction to understand the full picture, while the parent firm denied cooperation with tax authorities on the grounds that it could not speak for legally independent companies. This points to the leeway that modern legal systems bestow upon corporations. Whereas a parent firm might exert effective control over subsidiaries, legally, it enjoys only limited liability. The parent company is thus not liable for any claims beyond its investment stakes. In line with the proposed prism, this disjuncture between economic reality and legal form led some theorists¹ to describe multinationals as practically "invisible" under international law. Given its potential significance, it remained a desideratum of the conference to reflect on the entanglements between corporate legal history and tax history.

These tax management strategies relied on powerful facilitators, often supported by state institutions. JEROME EUWE (Rotterdam) and BEN WUBS (Rotterdam) examined Dutch banking secrecy laws during the interwar period. Although similar rules existed across Europe, the Netherlands strictly enforced its law prohibiting bank employees from disclosing customer information, making the Dutch tax haven particularly attractive. While court rulings empowered tax auditors, their capacities were curtailed as their top boss, the finance ministry, firmly prioritized secrecy. In the 1920s, the attraction of foreign capital was highly lucrative and thus popular, but following decreasing tax revenues during the Great Depression, several parties campaigned against banking secrecy. Still, the finance ministry defended the law, warning that removing it would severely harm the Dutch economy—an argument that echoes debates today.

State support for corporate invisibility is not confined to legislative action. JAMES HOLLIS (Oxford) highlighted how a judicial ruling in 1896 enabled foreign firms with subsidiaries in the UK to avoid paying taxes on sales income earned on British soil. The House of Lords determined that Roederer, a French wine maker selling its products to British customers through an agent, was not conducting business in the UK. The ruling held that the agent and the customer did not enter a contract but were merely exchanging offers and, therefore, the trade was legally made in France. Henceforth, subsidiary firms in the UK began stating that their British sales were "subject to acceptance" by the parent company abroad, effectively avoiding what Hollis terms "a taxable presence" in Britain. Remarkably, the 1896 decision came after intense lobbying by foreign producers who had complained about the protectionist effects of UK tax law. This prologue demonstrates how tax loopholes often emerge not from deliberate design but from the competing interests that shape tax codes over time.

With the rise of more complex tax rules, facilitating tax management became a lucrative trade in itself. In post-war Luxembourg, a growing offshore financial hub in post-war period, accounting firms expanded rapidly, laying the foundation for today's Big Four—PwC, Deloitte, Ernst & Young, and KPMG. BENOIT MAJERUS (Luxembourg) traced the history of this under-researched sector, showing its rapid growth and diversification. By 2007, the Big Four were among Luxembourg's largest employers, offering increasingly specialized financial services and tax strategies. During the 1970s,

as Luxembourg strengthened its hub position for Eurodollars, holding companies and investment funds, foreign audit firms like Deloitte, PwC, and Ernst & Young flocked in. They further expanded the service portfolio to encompass anything that might fall under the vague term “consultancy.” Ironically, PwC, accused in 2014 by two whistleblowers of facilitating aggressive tax avoidance, now even hosts whistleblower hotlines for clients.

The broad services offered by consultancies reveal that invisibility is sought for more than just tax benefits. Indeed, as BORIS GEHLEN (Stuttgart) and CHRISTIAN MARX (Munich) showed, for the Thyssen-Bornemisza-Group, which saw its assets expropriated by the Allied occupation authorities in 1945, risks to property rights became the key driver behind its sprawling corporate network. In their story, tax advantages played a smaller role in the decision whether to internationalize a company’s legal structure but influenced where to set up shop. THIBAUD GIDDEY (Lausanne), GEOFFROY LEGENTILHOMME (Lausanne) and MATTHIEU LEIMGRUBER (Zurich) demanded a similar broadening of focus by highlighting the dual appeal of tax havens for both corporations and individuals. Switzerland, besides its well-known tax advantages for holding companies, also allowed wealthy foreigners to pay taxes solely on their self-declared expenditures. Tracing the number of both tax facilities over time, the authors show a matching pattern between the ebbs and flows of corporate and private capital arriving in Switzerland. Similarly, and echoing Majerus’ insights about private facilitators of tax management, it was the same banks and tax lawyers that helped both firms and individuals migrate their assets. It is thus time to write an entangled history of corporate and individual tax privileges.

The more one hears about these strategies and facilitators, the less plausible it seems that something can be done against firms going invisible. There is counterevidence, however. MARK BILLINGS (Exeter), in his study of the Excess Profits Duty (EPD) introduced during World War I, showed how the British government illuminated previously hidden tax bases. By defining a standard profit rate—based on pre-war averages or a statutory rate of 6 to 7 percent—the United Kingdom taxed everything above it at rates of 40 to 80 percent. Despite the administrative burdens and ample room for companies to reduce the tax load, the EPD was surprisingly successful, providing up to 30 percent of government revenue during the war’s later years. MADELINE WOKER (Sheffield) proposed an even stronger challenge to the notion of inevitability, by asking why tax havens did not occur within the French Empire. Despite colonial attempts to introduce tax privileges and metropolitan firms’ interest in exploiting them, the metropolitan finance ministry resisted. Woker noted how a combination of meager state revenues, revived aspirations for national grandeur and a public administration of patriotic and conscientious civil servants proved stronger than both corporate and colonial interests. Together, the interventions of Billings and Woker demonstrated that administratively strong states can avoid a perpetual decline in tax revenues. Theirs are excellent examples of how history can serve as an antidote to political defeatism in the face of a seemingly ever-growing offshore economy.

The symposium concluded with a discussion on the current state of corporate taxation, focusing on whether the OECD-induced Global Minimum Tax constituted a game changer. Co-organizer JAN-OTMAR HESSE (Bayreuth), MARTIN HESS (Bern), member of Swiss Holdings, the interest group of multinational corporations, and DAVID STAUBLI (Bern), economist at the Swiss Federal Tax Administration, tried to provide an answer. After Hess and Staubli illustrated the technical details, they agreed that a fundamental shift is still absent. There was ongoing political resistance to full implementation, but more importantly, they argued the whole endeavor might be futile as states could still resort to subsidies and other incentives to attract multinationals, thereby replacing tax competition with subsidy competition. This might even jeopardize the equality principle inherent in

taxation, Staubli noted, as taxation is applied to everyone, while subsidies are targeted at specific industries. Perversely, the minimum tax might even spur a race to the bottom, as countries with rates above the 15 percent minimum threshold knew that their competitors vowed not to undercut them. Put simply, while the panel clearly understood the underlying motivations, it deemed the attempt to end tax competition via the minimum tax as mostly ineffective.

It was a missed opportunity that neither Hesse nor Straumann, who moderated, contrasted these pessimistic conclusions with the case studies showing how tax evasion can be curbed. This would have allowed them to tease out necessary and sufficient conditions. In the British example, raising tax revenue through the EPD became possible because the War displaced all other concerns and created increasing unity across class divides. The power of the French state to prevent the formation of tax havens in its empire must be judged against the backdrop of steep power hierarchies between the metropole and the colonies. Consequently, one could have made the case that the neoliberal states of the present era had lost the ability and willingness to effectively tax multinational enterprises. However, such contextual factors remained largely absent from the discussion, leaving the impression that any multilateral tax coordination was fundamentally futile. Given the strength of historians to put societal developments into their historical context, this absence was surprisingly unfortunate.

Taken together, the symposium underlined how wars and globalization are at the center of the tug of war between revenue-raising states and the tax haven industry. Companies shield their assets with the aid of corporate lawyers, accounting firms, and small states offering low levies and strong secrecy. Meanwhile, states respond by devising new tax frameworks, asserting authority over tax havens, and fostering international cooperation. While corporations may seem to hold the upper hand in this tussle, it remains an open question to what extent their advantage follows from the legal invisibility of the multinational firm or from the ideological and political configuration of 21st century state.

Conference Overview:

Marc Brüttsch (Zurich) / Tobias Straumann (Zurich): Welcome

Hartmut Berghoff (Göttingen) / Tobias Straumann (Zurich): Introduction

Thibaud Giddey (Lausanne) / Geoffroy Legentilhomme (Lausanne) / Matthieu Leimgruber (Zurich): A paradise for foreign capitalists? Expenditure-based taxation in Switzerland, 1860-2020

Harald Espeli (Oslo): Tax optimization among Norwegian shipowners and shipping companies 1890s-1920

Mark Billings (Exeter): Excess profits duty and tax management in the United Kingdom during and after World War One

Jeroen Euwe (Rotterdam) / Ben Wubs (Rotterdam): Banking secrecy in the Netherlands in the interwar period

James Hollis (Oxford): Avoiding a taxable presence in Belle Époque and interwar Britain

Declan O'Reilly (London): Tax avoidance, financial cloaking devices and the Nazi state

Benoît Majerus (Luxembourg): From local accounting firms to the Big Four in Luxembourg: An under-researched actor in tax engineering

Madeline Woker (Sheffield): French imperial statecraft, capital, corporate taxation, and the tax haven that wasn't, 1920s-1950s

Boris Gehlen (Stuttgart) / Christian Marx (Munich): Tax planning and political risk management: Evidence from European Multinationals (1970s/80s)

Tobias Straumann (Zurich) / Jan-Otmar Hesse (Bayreuth) / Martin Hess (Bern) / David Staubli (Bern): Round Table

Notes:

[1](#) Fleur Johns, The Invisibility of the Transnational Corporation: An Analysis of International Law and Legal Theory, in: Social Science Research Network, 14.10.2004, <https://papers.ssrn.com/abstract=603243> (12.08.2025).

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