

# The Research Panel for Tax Law and its Friends at the Stockholm Centre for Commercial Law

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## 1. Introduction

Shortly after its inception, the Stockholm Centre for Commercial Law (the “SCCL” or the “Centre”) was organised into research panels for different areas of commercial law. The Research Panel for Tax Law, which was established in 2004, is one of the oldest panels at the SCCL. The Panel was initially headed by Professor Roger Persson Österman, 2004–2008, followed by Professor Teresa Simon-Almendal, 2008–2021, and from 2021 by Senior Lecturer Caroline Nordklint.

Section 2 below contains a detailed description of how the tax law research support was initiated and developed at the SCCL, while Section 3 describes the Tax Friends and their importance for the SCCL and the tax law research at the Centre. Section 4 continues the presentation with a more detailed account of the activities conducted within the research panel, while Section 5 describes the various forms of co-operation within the research panel. Section 6 looks ahead and concludes the article.

## 2. Initiation and development of research support

In 2010, the tax law research group started to consider financial support for tax law research. The need for such support was significant, both in terms of support for individual researchers and their projects, and also for the tax law seminar activities in general that were conducted at the SCCL. Contacts

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were made with representatives of the tax law departments at Deloitte, Ernst & Young (now EY), KPMG and PwC and a meeting was initiated. It was an exciting and dynamic meeting, where the research group had the opportunity to develop their thoughts and ideas in dialogue with the accounting firms. The firms' interest in the tax law research at Stockholm University proved to be considerable, and the questions asked during the meeting were characterised by curiosity and goodwill. A lively dialogue ensued, both in substantive terms and in terms of the practicalities of collaborative support.

In 2010, a co-operation between academia and practitioners was initiated with the aim of supporting tax law research within the scope of the SCCL's activities. Initially, the support group consisted of the so-called Big Four, i.e. the four largest accounting firms in Sweden, although in 2012 the support co-operation was developed when the tax consultancy firm Svalner joined the group. According to the agreement, the support covered the tax law research carried out at the Research Panel for Tax Law and by associated researchers, but it also enabled the realisation of special projects of interest to tax law practitioners. The research support also contributed to the general seminar activities at the Centre. In concrete terms, the support took the form of individual researchers being able to apply for support for specific projects, while the Research Panel received an annual so-called operating grant through which, *inter alia*, the Research Panel's seminar and more outward-looking activities could be conducted.

As the co-operation progressed and individual researchers and support representatives got to know each other, there was a need for a more formalised yet simplified form of support.<sup>1</sup> The internal economic procedures within the university were perceived as both complicated and bureaucratic. The idea of establishing a foundation began to take shape. The question of a foundation was brought to a head when the support group, generously, unexpectedly and to the great delight of the entire SCCL and the Faculty of Law, offered to support the one-year post-doctoral post in Oxford, established through a collaboration between Christ Church and the Institute of European and Comparative Law (IECL), at Oxford University, Faculty of Law and the SCCL.<sup>2</sup> This is a high-prestige post, which is in the interests of the whole of Stockholm University to preserve and maintain, so the sponsors' commitment was gratefully received and much appreciated. However,

<sup>1</sup> For example, a procedure for applying for financial support was developed and fixed dates for support applications were decided.

<sup>2</sup> The current post-doctoral position was funded for the academic year 2018–2019.

the post-doctoral support represented a significant financial investment for the five supporters, and the implications and form of the investment were discussed intensively within the group. The most convenient and appropriate way was deemed to be to channel the support through a foundation.

In 2015, *the Foundation for Tax Law Research at the Stockholm Centre for Commercial Law* (the “Foundation”) was established. The so-called *Tax Friends* was a fact. In this context, special mention must be made of Helena Robertsson, formerly of KPMG, later of EY and now of Freemont International, who was the Foundation’s first chairperson. The establishment of the Foundation would not have been possible without her interest and driving commitment. In connection with the establishment of the Foundation and the support group’s commitment to the post-doctoral position, the Stockholm Oxford Law Symposium, a now well-established multi-day conference developed in co-operation between the SCCL and Christ Church, was further developed so that the symposium was expanded with a special tax law seminar, which for several years came to open the symposium. Representatives of the support group have often participated in the symposia and on a couple of occasions the group’s board meetings have also taken meetings place in Christ Church’s beautiful and historic premises.

### 3. The Foundation and its importance for tax law research

The Foundation has been of great importance for tax law research within the Research Panel for Tax Law at the SCCL. Through the Tax Friends’ support, relevant research could be completed and, among other things, through the seminar activities conducted at the SCCL, interesting research issues have been identified and addressed. More specifically, the Tax Friends’ involvement has contributed to the completion of as many as six tax law monographs, including five doctoral theses.<sup>3</sup> The support has thus contributed

<sup>3</sup> See Simon-Almendal, Teresa, *Företrädaransvar*, Norstedts juridik, 2015, Johansson, Jesper, *EU-domstolens restriktionsprövning i mål om de grundläggande friheterna och direkta skatter*, Jure Förlag AB, 2016, (dissertation), Fast Lappalainen, Katarina, *Om skyddet mot retroaktiv beskattning – En studie i konstitutionell rätt*, Stockholm University, 2019, (dissertation), Nordklint, Caroline, *Bevisrättens tillämpning i skatteprocessen*, Jure Förlag AB, Stockholm, 2019, (dissertation), Johansson, Alexandra, *Förhållandet mellan intern skattelagstiftning och skatteavtal – särskilt om företräde för interna skatteregler*, Jure Förlag AB, 2021, (dissertation) as well as Williams, Lawrence Joseph, *Transfer Pricing and the World Trade Organization Agreement, The compatibility of transfer pricing principles contained in*

to five doctorates in law and one appointed professor. In addition, support has been provided to another of the research panel's professors, which has resulted in two articles as well as an additional book chapter,<sup>4</sup> in this case by enabling a more protracted research stay at Université Paris 1 Panthéon-Sorbonne. For the researchers in tax law, the support has thus provided excellent opportunities for improved and expanded research in tax law.

Seminar activities and contacts between the support and research groups have also developed dynamically during the support co-operation. So-called researcher mingles and presentations of doctoral projects have been organised on several occasions. Representatives of the Tax Friends have then met with the research group, and the individual researchers have presented their projects and research. This has been followed by questions and discussion. The more general seminar activities have provided an opportunity to obtain further views on current research issues and problems that the research group has encountered and studied. The general seminars have also provided the group with ample opportunities to obtain facts and views on the legal problems dealt with in practice.

A review of the seminar activities over the period 2010–2020 reveals some interesting patterns. For example, the discussions return to procedural, administrative and rule of law issues, such as the design of the Swedish tax surcharges system, the issue of *ne bis in idem* and the taxpayer's duty to provide information *vis-à-vis* the Swedish Tax Agency's investigative responsibility. Other recurring themes are issues related to tax planning and tax avoidance, the design and effects of the 3:12 rules, the Swedish Tax Agency's working methods and modern approach, state aid and taxation of venture capital and venture capitalists. Furthermore, it may be noted that several half-day conferences have taken place. For example, VAT and other special taxes on financial services were discussed and the role of civil law in tax assess-

*Bilateral and Multilateral Tax Treaties with the WTO non-discrimination norms*, Stockholms universitet, 2024, (dissertation).

<sup>4</sup> See Monsenego, Jérôme, *Targeted measures against intra-group debt financing: what needs and design options in light of the ATAD, transfer pricing rules, and pillar 2*, Intertax, Volume 51, Issue 10, paragraphs 682–696; *Aides d'État et droit fiscal: les apports de l'arrêt Fiat du 8 novembre 2022 quant à la détermination du cadre de référence*, Fiscalité Internationale, 2023-1, paragraphs 159–166 and *The impact of the State aid rules on the transfer pricing aspects of intercompany loans: an analysis of the landmark ruling of the CJEU in the Fiat case*, in Robert Danon, Vikram Chand, Guglielmo Maisto and Amanda Pletz (eds.); *Transfer Pricing Aspects of Financial Transactions*, Kluwer Law International, paragraphs 931–941.

ments. It is pleasing to note that several examples from the seminars have led to new research. For example, questions about the duty to provide information and the responsibility to investigate contributed to the formulation of the dissertation chapter on *Skatteutredningens betydelse för de bevisrättsliga frågorna* and the study of the Swedish Tax Agency's new proactive working methods resulted in the book chapter *The Rule of Law in a State of Flux – The Swedish Tax Law Perspective*.<sup>5</sup>

#### 4. Further details of the Research Panel for Tax Law at the SCCL

The Research Panel for Tax Law currently consists of 15 members. The members are either affiliated with the Faculty of Law at Stockholm University as researchers or lecturers in tax law or as practising tax lawyers with a connection to the Tax Friends. As mentioned earlier, Caroline Nordklint has been the Head of the Research Panel for Tax Law since 2021. The purpose of the Research Panel for Tax Law's activities is primarily to be a platform for tax law research. The activities consist of the research activities carried out by the researchers attached to the Research Panel for Tax Law and the ongoing seminar activities, with the aim of carrying out the University's third task and contributing to the dissemination of research results to the public.<sup>6</sup>

Each year, the Research Panel organises approximately six tax law seminars. One objective is to offer at least one seminar with an academic basis in tax law, one seminar on an interdisciplinary theme and one seminar of a more popular nature each term. The objective is embodied, to a greater or lesser extent, in the seminars and often a seminar can include several perspectives. Regardless of the focus of the seminar, the seminar must have a scientific basis in order to be organised within the framework of the Research Panel for Tax Law's activities.

Although the Head of the Research Panel has the overall responsibility for the activities conducted therein, the entire group is involved in the design

<sup>5</sup> See Nordklint, Caroline, *Bevisrättens tillämpning i skatteprocessen*, Jure Förlag AB, 2019, paragraphs 203–242 and Simon-Almendal, Teresa, *Scandinavian Studies in Law Volume 69*, Rule of Law, Stockholm Institute for Scandinavian Law, 2023, p. 344–361.

<sup>6</sup> According to Chapter 1, Section 2 of the Swedish Higher Education Act (1992:1434), universities and colleges shall co-operate with society at large for the mutual exchange of knowledge and endeavour to ensure that the knowledge and skills available at the university and college benefit society. This is usually referred to as the University's third task.

of the seminars. This leads to a rich variety of subject-matter, which spans the entire field that characterises tax law research at Stockholm University and which continues to be linked to the areas of interest that have been described in Section 3. Some examples of issues that have been discussed in recent years include international tax law issues such as termination of tax treaties and dispute resolution in international situations, tax procedure and administrative tax law issues, such as evidential presumptions in tax law and the Swedish Tax Agency's use of AI for selection and control, and VAT law issues, such as VAT fraud and the issue of an expanded VAT base. In addition, many fundamentally important issues for tax law research have been highlighted within the activities, such as the concept of the rule of law in tax law, the importance of civil law for tax law and the future corporate tax system. Seminars have also been organised with international guests, including Frederik Zimmer, Professor Emeritus of Tax Law at the University of Oslo, Joshua Blank, Professor of Law at the University of California, Irvine School of Law,<sup>7</sup> and Judith Freedman, Professor Emeritus of Tax Law and Policy, Oxford University.<sup>8</sup>

As a rule, both an academic and a practising tax lawyer or tax economist are invited to speak at the seminars. Participants are invited from various fields relevant to tax law, such as academia, business, the Swedish Tax Agency and the courts. Both younger and more senior people participate in the discussions. This means that the seminars also constitute a platform for the exchange of experience, not least between generations. The seminars thus link academia and practice in various ways, enriching research with practical perspectives and enabling research results to reach the public. The seminars also contribute to building networks, both within and across disciplines. The seminar activities thus have a significant value for research at the Research Panel for Tax Law.

A description of the Research Panel for Tax Law and the activities thereof in recent years is hardly possible without mentioning the Covid 19 pandemic. When it broke out in 2020, the Research Panel for Tax Law, like other research panels at the SCCL, needed to consider the impact of the pandemic on its operations and the extent to which physical activities could be converted to digital format. Initially, all external activities were put on hold. Research, which is highly individualised, continued to be conducted.

<sup>7</sup> As of the date of the seminar, Professor Blank was affiliated with NY University Law School.

<sup>8</sup> At the time of her visit, Professor Freedman was still in academic service.

However, the research team quickly realised how essential the daily collegial meeting is for the creativity of research, especially when external venues, such as conferences and seminars, were shut down. As it became clear that the pandemic would maintain its grip on society, the Research Panel for Tax Law decided to organise seminars anyway, within the framework of the current restrictions. Initially, the seminars were held entirely remotely, although in 2021 speakers could be invited to participate and speak from the Zoom studio set up on at the SCCL's premises. Over time, and as the restrictions became increasingly relaxed, participants could also be invited to participate on site at the SCCL. The restrictions required that the seminars were initially organised as hybrid solutions, with very limited physical participation. However, as the restrictions were relaxed, the number of places for physical participation in the seminars increased.

In the aftermath of the pandemic, the seminar activities have faced some challenges. One of these was attracting participants back physically on site. As a result of the pandemic, many participants became accustomed to distance or hybrid seminars. The hybrid format can certainly help the seminar reach more interested parties across borders. However, as far as the Tax Law Panel is concerned, the physical meeting has always been the main purpose of its activities. Continuing to organise seminars in a hybrid format was thus not an option. In our view, the participants who choose to attend the Tax Law Panel's seminars are conversant and engaged with the subject-matter, which often leads to interesting and enriching conversations. These conversations would not have occurred in a digital meeting. Hence, commencing the autumn term 2022, only on-site seminar participation has been offered.

Notwithstanding the challenges presented by the pandemic, the Research Panel for Tax Law's research and seminar activities have continued to develop and contribute to the advancement of tax law research. One example thereof is the half-day conference organised in September 2023 on the theme "*Det skatterättsliga rättsäkerhetsbegreppet i perspektiv*". Together with researchers from the Faculty of Law, SCORE<sup>9</sup> and the Department of Philosophy at Stockholm University, the concept of the rule of law in tax law was discussed for an afternoon from a legal, political science and philosophical perspective. In light of the discussions that resulted from the conference, it was clear that the non-legal perspectives provide additional dimensions to the concept of

<sup>9</sup> Stockholm Centre for Public Sector Research.

the rule of law and that these perspectives need to be taken into account both in the formation of law and in the application thereof.

Another example of how inter-disciplinary perspectives have contributed to stimulating discussions is the seminar organised in February 2024 on the theme “*Ett skattesystem för Sverige i en global och digitaliserad värld*”. This seminar discussed the tax system of the future and whether the existing tax system is adapted to meet a digitalised world or whether change is required. The seminar culminated in an interesting discussion between tax researchers in the fields of legal science and national economics in dialogue with practising tax lawyers. The traditional principles of taxation were the subject of critical discussion. The seminar has also inspired the development of tax law teaching in the law degree programme. The seminar is a good example of interaction between research and teaching.

More topical and popular science themes are also captured in seminar activities. One example is the seminar that ended the spring term of 2024, which dealt with the future design of the rules governing close companies. The taxation of close companies is central to Swedish income taxation and the regulatory framework has undergone several changes over the years, often in response to the tax planning schemes to which the rules have contributed. However, the work relating to the reform and changes to the rules has entailed that the complexity of the rules has increased in several respects, something that is often highlighted as problematic in the debate pertaining thereto. In 2022, the Swedish government thus decided to form a committee with the task of proposing simplified rules for close companies and the owners thereof. At the seminar, the chairman of the committee, Justice of the Swedish Administrative Supreme Court Linda Haggren, presented the proposal that the Committee had submitted to the government a few days earlier.

## 5. The Research Panel's Collaborative Efforts

Something that has characterised the research climate in general in recent years is the importance of research co-operation. Co-operation can assume various forms and involve co-operation between researchers and research disciplines, as well as between researchers, the legal profession and external research funders. Regardless of the form and purpose of the co-operation in question, the co-operation itself is an important and often necessary component for fruitful research. For the Research Panel for Tax Law at the SCCL,



the forms of co-operation can be divided into three categories: co-operation within the tax group, co-operation with other researchers, both national and international, and external co-operation with parties outside academia.

As an example of the first category of co-operation, a joint research project on tax law methodology is currently underway in the Research Panel for Tax Law. The researchers currently working on the project are Professor Teresa Simon-Almendal and Professor Roger Persson Österman, Professor Emeritus Peter Melz and Senior Lecturers Caroline Nordklint and Alexandra Johansson. The aim of the project is to analyse and discuss various methodological problems and challenges in the interpretation and application of tax law. The results are intended to be published in a tax law anthology.

The tax group also conducts research of an interdisciplinary or multidisciplinary nature, with the tax group's researchers participating in various networks and research groups. One example is the research project *Tax Tech, Tax Anomalies and the Rule of Law*, based in Lund, in which Teresa Simon-Almendal participates. In addition to Teresa and a subject colleague in Lund, the project also involves researchers from economics, social anthropology, technology and engineering. Another example is *the Network for Administrative Procedural Law*, in which Caroline Nordklint participates together with other administrative procedural law researchers. The main purpose of the network is to provide a platform for administrative procedural law research in Sweden. This is achieved, *inter alia*, through conferences where different perspectives on administrative procedural law problems are discussed. The network has also formed itself into a joint book project. Jérôme Monsenego's research focuses primarily on international tax issues. He therefore participates actively and regularly in tax law networks in the international context, such as the International Fiscal Association and the European Commission's Platform for Tax Good Governance.

In addition to the above, there are other co-operations and networks in which the Research Panel for Tax Law's researchers are active. *The Nordic Tax Research Council*, NTRC, is a Nordic intergovernmental body chaired by Teresa Simon-Almendal and secretary general Caroline Nordklint. The task of the Research Council is to promote Nordic co-operation in tax research, focusing on issues of common Nordic interest. The Research Council's activities help to develop relations between Nordic researchers in tax law and tax economics, and work to build bridges with public officials in the various Nordic finance ministries.

Another example of co-operation and networking, which has involved the research panel for generations, is participation in various roles and forms in the tax law journal *Skattenytt*. Over the years, the Research Panel for Tax Law has been represented in the journal both as editors and as members of the editorial committee. Alexandra Johansson is currently deputy editor of the journal. The Research Panel's affiliation with *Skattenytt* is a valuable channel for disseminating the research conducted at the Research Panel for Tax Law and participation in the journal gives researchers insight into tax law "trends" and inspiration for new research projects.

The third category of co-operation, i.e. external co-operation with parties outside academia, is a central part of the Research Panel for Tax Law's activities. As in most of the SCCL's research panels, researchers in the Research Panel for Tax Law are regularly engaged as lecturers in various contexts and have taught at, for example, the Swedish Court Service's Judicial Academy and within the framework of the Swedish Bar Association's course programme for many years. A somewhat different and exciting example of this type of external co-operation is the experience that Professor Roger Persson Österman has had, partly as a co-opted member for a year at the Administrative Court of Appeal in Stockholm and partly subsequently and with support from Vinnova, as an employee at the Swedish Tax Agency's Large Corporates Department. The purpose of the stay at the Agency was to increase collaboration between the Agency and the university and to conduct an on-site study of the Swedish Tax Agency's work pertaining to the rule of law and foreseeability in taxation.

To summarise, the various co-operations and external contacts of the Research Panel for Tax Law are highly valued by the research team. Different types of co-operation have enriched tax law research in several different ways. In this context we would like to particularly emphasise the relationship between the research panel and the Tax Friends, the support of which has, to a considerable extent, provided opportunities and conditions for research.

## 6. Concluding remarks

The Research Panel for Tax Law, and of course the other research panels at the SCCL, have benefited greatly from the Centre's geographical location in Stockholm. The proximity to business and central public authorities such as the Swedish Tax Agency, the Swedish Ministry of Finance and the Swedish Supreme Administrative Court, has been central to networking and bridge-

building between academia and practice. However, the Centre has not only positioned itself nationally, but rather has also established very good Nordic and international commercial law co-operations and contact networks. We believe that the intra-Nordic tax law community could be developed in a similar way.

The Nordic tax systems evince significant similarities, although there are also interesting differences, for example in the approach to wealth tax, as well as inheritance and gift taxes. For future work, the Research Panel for Tax Law is therefore considering developing more structural and dynamic tax research co-operation between the various Nordic universities. Historically, there has been a relatively close co-operation on tax science issues, although in recent decades this has become somewhat diluted. We believe that now is the time to revive this co-operation. Societal challenges of various kinds such as economic turbulence, geopolitical turmoil, developing NATO co-operation, eroding tax bases, etc. warrant further collaboration of various kinds. Together we stand stronger. The foundations for deeper intra-Nordic tax science collaboration have already been laid with the Research Panel's involvement in the Nordic Tax Research Council. The starting point is to organise and participate in joint Nordic seminars and conferences to a greater extent, and to provide greater incentives for research visits to Nordic universities other than our own than is currently the case. Collaboration and good relations are the keys to a brighter and more secure future, as well as to developed and socially beneficial research, irrespective of whether such is of a tax law or broader commercial law nature.

