
SELECTED ASPECTS OF RETROACTIVITY IN TAXATION FROM A COMPARATIVE AND SUPRANATIONAL LAW PERSPECTIVE IN THE EXPERIENCE OF ITALY AND THE EUROPEAN UNION

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Abstract

This paper is based in an analysis of the developments in retroactivity in the Italian tax system and the state of the art in retroactivity in European tax law. Emphasis is made on problems concerning the effects of judgments and supranational (primary and secondary) legislation in time. The article combines both the national and supranational level in order to show how the different instances of legal pluralism are reconciled in the framework of a multi-level system driven by the rule of the supremacy of European Union law over the law of the Member States, specially referring to the application of rulings issued by the ECJ by Member States.

Resumen

Este estudio se basa en un análisis de la forma en la que la retroactividad se ha desarrollado en el sistema tributario italiano y hace un estado del arte actual en el derecho tributario europeo, haciendo énfasis particular en los problemas relativos a los efectos de las sentencias y la legislación supranacional (primaria y secundaria) en el tiempo. El artículo combina la normatividad nacional italiana con la normatividad supranacional para mostrar de qué manera se reconcilian las diferentes instancias del pluralismo legal en el marco de un sistema multinivel guiado por la regla de la supremacía del derecho de la Unión Europea sobre el derecho de los estados miembros, en especial en lo atinente a la aplicación de los fallos del Tribunal Europeo en los ámbitos nacionales de los estados miembros.

Key words

Retroactivity, Retroactive Application of Tax, Italian Tax System, European Tax Law, Ex Nunc and Ex Tunc Application of Tax Norms, Legal Certainty and Legitimate Expectations, Taxpayer Rights.

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Palabras clave

Irretroactividad, Aplicación Retroactiva de los Tributos, Derecho Tributario Italiano, Derecho Tributario Europeo, Aplicación EX Nunc y Ex Tunc de Normas Tributarias, Sistema Tributario, Principio de Legalidad, seguridad Jurídica, Protección a los Contribuyentes, Confianza legítima.