

Tackling the complex German tax framework

Exclusive interview – CEO of German Association of Tax Advisers



As part of Lawyer Monthly's special focus on the German business environment, here we speak to Prof. Axel Pestke, CEO of the German Association of Tax Advisers (DStV), about the German tax framework and what makes it so attractive for businesses at the moment.

Please give me a little information about DStV and your role as CEO – what does your typical day include?

The DStV is the umbrella organization of the 15 regional Associations of Tax Advisers in Germany and represents the interest of tax advisers on national and international level. To this end it mainly campaigns for good operating conditions. Reasonable and compatible taxation as well as feasible accounting rules for the protection of small and medium enterprises are also high on the association's agenda.

These goals are being realized by the priceless work of the numerous volunteers that are supported by the head office and its 21 employees. My main responsibility is the management of the office and the coordination of various projects. Supporting the president of the DStV and the committees as well as the communication with member organizations are of particular importance. Meetings in Berlin with people associated with the DStV as well as with external persons thus constitute an important part of my day-to-day business.

In order to develop and implement strategies in the mentioned fields I also attend national and international meetings and conferences.

Is the German tax framework attractive for businesses right now? How has it changed over the last ten years?

With the reduction of the corporate tax rate, which was originally 40% until 2000 to 25% in a first step and then to 15% in 2008, Germany transformed itself from a high-tax country to a country with a relatively moderate corporate tax rate in international comparison. This is just one of many examples of how the tax framework for corporations in the German business location has

improved over the last 10 years. The applicable tax system is in general business friendly and stimulates investment activity and economic growth.

In the light of the current positive development in German tax revenues the tax law should be nevertheless systemized in a more positive way and generate investment incentives, especially for the "German Mittelstand" as the supporting pillar of the German economy. To this effect the Deutscher Steuerberaterverband e.V. (DStV) sees needs for reforms for instance in the field of business tax. The broadening of the tax basis with the German corporate tax reform act 2008 led to a noticeable rise of the tax burden for small and medium enterprises. At that time the non deductibility of costs (for example 3/4 of the rent and leasing costs of property) was widened considerably. DStV suggests the elimination of these income increases that are not covered by the companies' production.

Investment incentives were also reduced by the abolishment of the possibility of declining depreciation in 2008.

Since it actually reflects the real consumption of value this procedure should be readopted. This also complies with the constitutionally demanded ability-to-pay principle. After all, the threshold for the possibility of immediate write-off of low-value assets has remained unchanged at a value of EUR 410 since the 1960s. This tool would especially give small and medium enterprises a liquidity advantage if raised to a timely value of EUR 1,000.

What are the key challenges your members are facing within taxation at the moment?

The German tax system is very complex. Circuitous communication and high costs for staff and compiling make working burdensome for tax

advisers as well as for the fiscal administration. The challenge the profession is currently facing is mostly due to increasing digitalization. Two closely interwoven projects constitute the focus point of interest which shall facilitate daily business and raise efficiency: the successful implementation of "prefilled tax declarations" and the "power of attorney data bank".

Third persons, such as employers and health insurance companies, already digitally transmit data of the taxpayers to the administration. Data approved by the employer such as payroll tax, health- and long term care insurance-premiums as well as information about pension payments, is supposed to be integrated automatically in the tax declaration in the future. Since a faultless transmission of the data cannot be guaranteed in every case, the tax payer or his tax adviser as proxy need to be granted the ability to access and control the data-pools of the fiscal authority. The required authorisation for this purpose shall be ensured through the so called "power of attorney data bank". This will comprise all authorizations in connection with tax cases. The fiscal authority will thus be able to verify whether the tax adviser is authorized by the client and if the authorization covers his action, in return the tax adviser may access the data pools. A first pilot phase has been successfully completed. Altogether the implementation of these two projects offer the opportunity to bring the electronic communication between the fiscal administration, tax advisers and tax payers one crucial step forward.

Another part of the E-Government initiative is the so called "E-balance sheet". This ruling affects financial years starting after December 31st 2011, so the implementation of electronic transfer of balance sheet and P&L-statement has been in full swing since the beginning of this year. Currently, first experiences and conclusions gained so far

are being implemented. In the long run it is planned to retransfer the findings acquired by the administration to the tax payer in xbrl-format.

Furthermore, changes in the risk management of the authority have an effect on the profession's daily work. On the one hand tax audits shall be performed more promptly. On the other hand taxpayers and tax declarations are classified by mathematical-statistical methods. These affect the intensity of examination by the fiscal authority.

Tax regulation is under the spotlight in many countries as numerous governments contend with large deficits. How could tax legislation be altered for the better in your opinion?

Up-to-date estimates of the German tax revenues illustrate that again they have risen considerably in the first half of 2013. This growth is mainly caused by an above-average amount of payroll-taxes. With regard to this tax the government does not only benefit from the situation on the labour-market but also from a hidden tax increase caused by the bracket creep by inflation. That's why the DStV champions decidedly for a constant regulatory framework as a basis for wealth and further development.

With respect to tax legislation some elements are keystones of a predictable fiscal policy and therefore the foundation of economic activities, such as taxation based on economic capacity and abstaining from laws that retrospectively impose financial burdens. The necessary planning reliability for the taxpayers can only be achieved through this. An impact assessment by the National Regulatory Control Council and a systematic legislation controlling are – in the view of the DStV – most desirable to get closer to this goal in the future.

Likewise, the increasing complexity must be curbed. Actions with respect to this topic could be realized through an extensive harmonization of payroll-taxes and social contributions.

DSIV 'co-ordinates members' interests and opinions in questions regarding professional policies and promotes them on national, European and international level', how does it do this?

The DSIV with its 15 member organizations represents the interest of about 35,000 tax advisers. Naturally, the primary goal is establishing or rather perpetuating advantageous basic conditions for the profession. Since the profession also sees itself as the expert in tax law, the DSIV also participates in the development of tax legislation. In the interests of our clients, which are mostly individuals and small and medium enterprises, we try to prevent excessive and bureaucratic tax regulations and speak up for reasonable and feasible accounting rules. The internal organization of the DSIV and its expert groups

pursue these goals both on national and international level. On the one hand this regards the technical and practical work, which covers the area of tax laws and accounting rules and on the other hand it comprises the representation of interests, which includes laws governing the profession and public relations.

Working teams and committees made up of experts for the topics in question are responsible for the formation of opinions. The contact persons for the national legislative process and lobbying are numerous but can be classified into two groups: On the one hand there are associations and organizations with which we maintain an active cooperation; exchanging of views and information as well as drafting joint statements and petitions. On the other hand governmental institutions have to be named. We are often asked to get involved in the legislative process by governmental bodies such as the Bundesrat and Bundestag as well as the Ministries of Finance, Economy and Justice. With regard to questions of deregulation and impact assessment of tax laws we are also heard by the National Regulatory Control Council.

On the European scale lobbying is done by means of statements directed at the committees of the European Parliament and the Commission as well as by participating in workshops and the institutions' working groups.

The DStV is also a member of European umbrella organizations that due to a greater number of professionals represented can exert a stronger influence on the process of decision-making. The Confédération Fiscale Européenne (CFE) is concerned with matters of taxation and professional affairs law. The European Federation of Accountants and Auditors (EFAA) represents interests with regards to accounting and auditing.

Whilst tax laws and laws governing the profession are strongly influenced by European views, the international impact is quite low. Accounting and auditing on the contrary already apply international standards like the International Accounting Standards and the International Standards on Auditing on a day-to-day basis. The EFAA is a contact with growing influence in the standard setting process of the IASB, and the IFAC, especially in the matters of small and medium enterprises and practices.

What is your overriding aim as CEO of DSIV?

The overriding goal of my work is providing a framework which enables tax advisers to work professionally and efficiently and to back them in regulation matters. Furthermore, it is important for our profession to generate an added value for the clients. The mainly small and medium-sized clients of our members shall be able to focus on their daily business in order to cope with their enormous part in the German economy. Therefore it is a special request of mine to strive for SME-friendly and efficient rules in all areas that tax advisers are concerned with, such as tax, accounting and advisory services.

Is there anything else you would like to add?

Tax advisers as well as other members of the so-called liberal professions, like auditors, lawyers, engineers, architects and the medical professions, face a wide range of challenges – both in matters of (European) law and in the actual state of affairs. Examples are the recruiting of young professionals in an aging society and the "war for talents". Especially the liberal professions with their high cognitive requirements are dependent on the best minds. International and inter-professional cooperations might be helpful to counter those challenges and to ensure the quality of these individual and highly personal services in the future. *LM*

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