

Corporate taxation as an expression of cantonal sovereignty

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The history traced in this chapter can be read as a contest between cantonal sovereignty and international standards. In the period of the special regimes, the cantons used their competence over tax rates and status to attract mobile income, with the tacit support of the Confederation, which benefited from the federal tax on that income. The European Union and the OECD challenged this practice in the name of fair competition and the integrity of tax bases. Switzerland abolished the regimes, but it did so in a way that preserved the cantonal freedom to set rates and to choose among new instruments. Each canton thereby retained the power to make its own trade-off between attractiveness and revenue.¹

Pillar Two narrows this freedom further, because it sets a floor below which no canton can effectively tax large groups. Below the threshold of EUR 750 million in consolidated revenue, however, the cantons remain free, and even above it they retain discretion over the use of the revenue and over the non-tax conditions of their location. The Basel location package illustrates this shift from competition through tax rates to competition through public expenditure. In this sense, cantonal sovereignty has moved to a different field, in which the instruments are subsidies, infrastructure, education and family policy. In the author's view, the Swiss case shows that a federal system can absorb a global standard while it preserves a meaningful space for local decision-making.

The Basel case also illustrates the limits of that space. A small canton that depends on a few global groups cannot set its tax policy independently of the decisions those groups take in response to the United States, the European Union and the markets in which they sell. Its sovereignty is real, but it is exercised in close dialogue with the companies it taxes and with the electorate that must approve each step. That combination of fiscal

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autonomy, corporate dependence and direct democracy is a distinctive feature of Basel as a financial and industrial centre.

1 Notes

1. On the relationship between cantonal tax sovereignty and international tax standards, see the Swiss constitutional and tax law literature, for example the commentaries on Art. 129 and Art. 129a of the Federal Constitution. To be verified. ↩

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