

## The practice on mixed companies

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The laws of 1930 and 1947 privileged holding companies and domicile companies, the latter being companies that had their registered seat in the canton but conducted no business there. The decisive innovation of the post-war period went further. In the late 1950s, the cantonal tax administration, under its head Anton Koch, developed an administrative practice for so-called mixed companies, the "gemischte Gesellschaften". These were companies that had a real presence in the canton, with offices and employees, but earned most of their revenue abroad. The practice required that at least 80 per cent of the company's revenue come from foreign sources. Such companies were taxed on only 25 per cent of their profits, with the remaining 75 per cent exempt from cantonal tax.<sup>1</sup> The practice on mixed companies, which the historian of Zug's economic policy Gianni Bomio has described as a change in administrative practice without new legislation, proved decisive.<sup>2</sup> It extended the privilege from passive holding and domicile companies to active trading and service companies, thereby making Zug attractive to a new kind of enterprise: the international trading company that needed a real office, real staff and real management, but whose customers and suppliers were located abroad. The commodity traders, whose history is traced in Part D, were the most prominent beneficiaries.

The legal basis of the practice was thin. A motion in the cantonal parliament in 1989 by the member Armin Jans, which demanded a proper legal basis for the taxation of mixed companies, was rejected by the government and the parliament.<sup>3</sup> The mixed company status acquired a statutory foundation only with the federal harmonisation law of 1990, which codified the cantonal status regimes for holding, domicile and mixed companies in a uniform form for all cantons.<sup>4</sup> For three decades, one of the most important instruments of the canton's economic policy thus rested on administrative practice.

For the legal historian, this is remarkable. The practice on mixed companies was not challenged in the courts, because no one had standing or interest to challenge it: the companies that benefited were satisfied, while the competitors and other cantons that might have objected had no procedural means of doing so. The practice was known to the federal authorities and to the other cantons, several of which adopted similar practices. It was, in effect, a customary rule of cantonal tax administration, developed by officials in consultation with advisers and accepted by the political authorities. Bomio names three successive heads of the cantonal tax administration, Anton Koch, Josef Schön and Retus Venzin, as the architects of a pragmatic and customer-friendly administration that he regards as one of the canton's decisive factors of success.<sup>5</sup>

## 1 Notes

1. Zug in der Welt, "Zug mit Steuern steuern": in the late 1950s, the tax administration under tax president Anton Koch created the administrative practice of the "gemischte Gesellschaft" (mixed company), with a minimum requirement of 80 per cent foreign revenue and taxation of only 25 per cent of profit, 75 per cent being tax-free; Zug in der Welt, "Zug und der globale Kapitalismus": in 1959 Zug extended privileges to "mixed companies" requiring only minimal local business activity; Zug in der Welt, "Die Finanzen des Kantons Zug und seiner Gemeinden seit 1950": mixed company privileges introduced in 1959. ↩
2. Sichtweisen Schweiz, "Wirtschaftskanton Zug: gelungene Transformationen dank stabilen Erfolgsfaktoren" (Gianni Bomio): after the Second World War, the privileged taxation of mixed companies earning most of their revenue abroad was implemented as a change in practice without new legislation, and this proved decisive. ↩
3. Zug in der Welt, "Zug mit Steuern steuern": in 1989 a motion by Kantonsrat Armin Jans demanded a proper legal basis for the taxation of "gemischte Gesellschaften"; it was rejected by the government and parliament. ↩
4. Fedlex, StHG of 14 December 1990, SR 642.14, consolidated version of 1 January 2019, fedlex.admin.ch, Art. 28 para. 2 (holding companies), para. 3 (companies carrying on an administrative activity but no business activity in Switzerland) and para. 4 (companies whose business activity is predominantly directed abroad): uniform federal

framework for the three cantonal status regimes in the harmonisation act of 14 December 1990. ↩

5. Sichtweisen Schweiz, "Wirtschaftskanton Zug" (Gianni Bomio): pragmatic administration with customer-friendly enforcement by key authorities, in particular the tax administration under its presidents Anton Koch, Josef Schön and Retus Venzin, as a key success factor. ↩

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