

Cooperation and compliance in times of fiscal consolidation

A Tax Consultant's view

Ralph Korf



Cooperation and compliance in times of fiscal consolidation

Three Laws of Robotics

1. A robot may not injure a human being or, through inaction, allow a human being to come to harm.
2. A robot must obey the orders given to it by human beings, except where such orders would conflict with the First Law.
3. A robot must protect its own existence as long as such protection does not conflict with the First or Second Law.

Isaac Asimov, Runaround, 1942

Cooperation and compliance in times of fiscal consolidation

Three Rules for Tax Consultants

1. A Tax Consultant has to obey the Law.
2. A Tax Consultant has to do everything to minimise the client's tax related burdens.
3. In a conflict, Rule 1 prevails.

Cooperation and compliance in times of fiscal consolidation

Three Rules for Tax Consultants

1. A Tax Consultant has to obey the Law.

“The Law” – codified and created by democratically legitimated body (delegation to non-elected bodies is possible, cf. Article 290 TFEU)

Cooperation and compliance in times of fiscal consolidation

Three Rules for Tax Consultants

2. A Tax Consultant has to do everything to minimise the client's tax-related burdens.

Tax-related: includes compliance costs

Full vs. Limited Mandate

Taxes are not a damage to be reimbursed – avoidable taxes are

Wrong or incomplete advice – causality for damage assumed

Cooperation and compliance in times of fiscal consolidation

Three Rules for Tax Consultants

2. A Tax Consultant has to do everything to minimise the client's tax-related burdens – the sequel

Obligation to safeguard fiscal interests?

Does the rule exclude cooperation?

Cooperation and compliance in times of fiscal consolidation

Three Rules for Tax Consultants

3. In a conflict, Rule 1 prevails.

Dolus directus vs. Dolus eventualis, (gross) negligence

How to determine a conflict?

Tax Authorities do not have sole authority of interpretation

Disclose or dismiss

Legal obligations outside taxation, e.g. Anti-Money-Laundering

Cooperation and compliance in times of fiscal consolidation

Cooperation and compliance

From very simple to very complex:

Self-explanatory documentation

Enhanced cooperation between taxpayer and authorities,
institutional or informal

Netherlands

United Kingdom

Switzerland

European VAT Forum