Interview with Professor dr. Hein Vermeulen

Ambitions
What are your further ambitions now that you have been appointed professor?



Well, a lot! This is only the beginning, really. I have a teaching and research remit that I want to develop, which is pretty ambitious. That is my primary responsibility. Besides wanting to do a lot more here at the University, I would like to write two books about different forms of Dutch CIVs. Also, in light of my remit, which focuses on international and European tax law, I aim to seek cooperation with foreign colleagues, foreign academics in particular, who conduct research on CIVs. For example, I am writing a comparative law study about the U.S. REIT and the Dutch REIT with a colleague from NYU School of Law. The final aim is to organise a conference with him at the ACTL sometime next year. You try to learn from one another, to compare and ultimately, I intend to link a conference to this project. So, it is not only cooperation in writing an article, you also have the opportunity to come together and discuss the subject, and even invite other parties to join the discussion. This discussion is centred on the fact that there are certain flaws in the set-up of CIVs. We hope to come to a certain conclusion, by learning from other countries, and reassure the authorities that the solution is not abuse. Because that is constantly the theme of interest of the tax authorities. What you want is a deviation from the normal application of the law. Because, if you apply the law 'normally', the investment through a CIV will turn out unfairly, that is a given. The legislature wants to address this problem because the economic reality is that we all have to save up for the future. That is why provisions have been made in corporate tax law, to make sure that the double taxation that occurs when you invest collectively, instead of individually, is alleviated. We chose a solution for this problem in the 1940s and 1970s, but now it may be time for revision. Only, the fear is, because you would deviate from normal law, you give a party a certain facility, that the wrong parties would take advantage of it. The legislature wants to be certain that a revision of the law will not turn out badly. That is why it is so great that I can now do thorough research, so that the legislature can build on evidence-based recommendations.
Another project I am working on, although I have not been able to do much for it yet because of my upcoming inaugural lecture, is a collaboration with Oxford, WU Vienna, Complutense University of Madrid, Mendel University (Czech Republic), Corvinus University of Budapest, Sacro Cuore Catholic University (Italy) and the IBFD, about the Financial Transaction Tax (FTT). The initiative for this joint effort has attracted some renowned institutions, Oxford and the ACTL of course! Thus, in short, I have a remit of my own and plans for international cooperation. Lastly, another challenge would be to study the link between financial monitoring and tax law. Those are two separate languages really, regulatory law and tax law, while the latter is being linked more and more to the former. That is another thing I hope to focus on. So, enough ambitions indeed! Furthermore, I will be supervising a PhD student, so that and international cooperation are both ways to improve my research effectiveness.

Acceleration
Your field seems to be accelerating rapidly. Will that acceleration end at any point?

In fact, current Dutch corporate taxation legislation dates back to 1969, and the underlying thinking is a bit old school in some areas - which is something I said literally to the

tax authorities when giving a presentation there. The greatest pressure comes from internationalisation and Europe. With regard to internationalisation, the OECD has made great effort since the IFA called for action in the sixties. This has led to reports and adjustments to the OECD Model Treaty and Commentary, so that has progressed pretty well. Now, European law is the hot potato, because all tax systems have been built from the national context. But cross-border movements relating to CIVs are the problem that has not yet been addressed, and that is the thing that, I think, could cause an acceleration. Because, if the European Court concludes that you have to give an exemption to the foreign investor, in the same way as you exempt a national investor, the system no longer makes sense from a domestic point of view. There is a system error, because then the State where the CIV is established cannot tax the income. That is the urgent question that is on the table at the moment, and that might turn the whole system upside down.
A solution worth examining would be to reverse the current system of exemption and taxation. Switzerland has such a system. Non-discrimination would no longer be an issue. However, perhaps it would be better to address the issue within a CCCTB type of approach. Harmonisation, that is. However, I think that countries will first sort out the problem unilaterally, because under pressure from the European Court, the State where the CIV is established may not be able to tax at all, which means a major loss of income for countries. That is not an option.
The thing is, if you invest on an individual basis, then you have to pay a certain tax. Well, you do not want the fuss of investing money yourself, so you contract it out to others. In that case, the tax should be equal, but it should also not be less. That would even be considered as State aid, so that entire debate also runs through the field of CIVs. But, yes, the European context is currently the most exciting. That acceleration could perhaps only come to a halt if the system were changed. And for that change to happen, you need sound research and I hope to able to deliver that. So, for the time being, the acceleration will not stop. It will only stop when everything is perfectly aligned, but that is a sort of utopia.

CIVs

We are then talking about CIVs, amongst other things. What is so interesting about 'Collective Investment Vehicles'?

Well, I can only give you a 'nerdy' answer to that! What is so interesting about CIVs? What I find most interesting is that you have to understand the basic rules and principles. You have to be familiar with corporate taxation, with income taxation, with international tax law and European tax law, and then look at it from my own point of view. So, I cannot say that I only work with one of these subjects, no, I have to understand them all, because they are all interconnected. And each time you look at it with a certain point of view, the viewpoint of the CIV. But, you might ask, why is that so interesting? Because of the dynamics. We think inside our own borders and see that there is double taxation when investing collectively. We do not want that, there is a certain principle of neutrality, and the conclusion is to treat it equally, although it is not an equal case. So, we deviate from the law, which we think works in the national context, but that leads to international, European problems. That is the dynamic I find so interesting.
The subject of CIVs is also socially relevant. In an ageing society and in a world where citizens no longer depend on the State, wealth accumulation is very important. In order for citizens to achieve that, a State has to make sure that in regulatory law and in tax law collective investment is well organised. In Western Europe certainly, this is highly relevant. It is vital for a State to remove any obstacles that are in the way of citizens' investment. These obstacles are twofold. One the one hand, they result in people not investing, on the other hand, a fiscal obstacle results in needing more capital to reach the end level of capital for your retirement. Therefore, it is in the best interest of a State, and that is why they are all doing it, to make sure that there is a dispersion of capital and that it is not only limited to a select group. In

short, although I personally find it interesting, it is also very relevant socially.

Shifting
How do you cope with that constant shifting between areas of taxation, and the shifts in the field of CIVs?

I do think it is a challenge to study the matter, but once you get the hang of it, it is no longer so difficult. I believe that I have a good overview of the game, and that makes it easy to cope with. I do read my literature every week, which requires discipline, but that is a quality that every lawyer and scholar should possess. I also just see it as a game, and that is how I explain it to people who want to study tax law or work at a tax law firm. See it as a game of arguments, as a chessboard. Then you can use your creativity to the fullest, although it might seem a boring subject. If you do not come from the legal world, it seems extremely boring, but when you are in the middle of it, it is actually a lot of fun. You do have to be on top of your subject, but the same principle holds for a doctor. A doctor can also not stop reading medical journals.
If my life had turned out differently, do not get me wrong, I am very happy with the way it is, perhaps it would have been nice to have a job like a bus driver. You are on the road and when you are home, you can relax and do not have to think: what if I had taken that turn, or gone down another route. In fact, I like the creativity and drive that is inherent to my profession. You do have to enjoy it, of course, but that is the case with everything. Fundamentally, you have to like what you are doing and exercise discipline. If you do not and write an article based on outdated case law or legislation, you will be judged on that immediately. So tax law is also a bit competitive, or rather, a very competitive line of work.

Teaching
Are you successful in transferring the dynamics of your field onto students when teaching?

I try to transfer those dynamics by thinking about ways to teach and educate. So I think about didactical strategies of how to convey my message to students. In a way, I am already programmed to think about how I am going to explain a new subject, while reading it. I am also very much conscious of the fact that teaching is a real office. My sister, who holds a PhD in medical science, also teaches and I enjoy talking to her about it and copying her when she has learned something new. But most of all, I try to enliven my classes by telling students something about tax law in practice. About the dynamics of the real world and what you can read between the lines in study books. Sometimes I make use of current topics and events, by bringing various newspaper clippings to class.
I do think it is really good to have a different world from the university; working in practice and being active in the academic world. How I see it is that everybody who works here at the ACTL is eating in a candy shop, because next to this job we have another job. If you were to work here for five days a week the feeling would be different. We feel privileged to be here at the ACTL and to be able to brainstorm with one another, colleagues from the Big Four and reputable Law Firms, but also from the tax authorities, from the courts, including the Dutch Supreme Court. I find this a very energetic meeting place, where all kinds of ideas are exchanged, because of the fact that most people have another job. An extra job, so to speak. And, in my opinion, that is the reason why people are so glad to work here and why the atmosphere is so good. I myself go to work with a smile on my face. But if you miss that practical experience, you would have to find other ways to draw your relevance from. I do not believe that it is very attractive for students to have a teacher without a practical feeling. Another benefit is that the colleagues who work here at the ACTL are very efficient, which this Annual Report proves. Colleagues here are ambitious and creative and find it a privilege to work for the ACTL, not to relax but to be part of that amazing flow of energy.

Research
At the University of Amsterdam, the ratio between education and research is one of

60/40 percent. Do you see that as the right balance between the two?

For me, education is indispensable. In my opinion, everybody at the university should teach. Perhaps not when writing your PhD, but well, perhaps even then. At least, my experience is that the people who are the best in telling a story and arguing a point, are the people who can explain things easily. They are the ones who do not need to use fancy words and jargon, but use simple terms to explain a case or an issue. They have such a good command of the essentials, and that is also a goal that I have set for myself. When mastering the basics, it is possible to break down the matter into building blocks and analyse it as such. So, yes, I find education indispensable, but the actual percentage is arbitrary in my opinion. A good academic, a good scientist, ought to teach, but that is my personal preference, based on who you admire, who appeals to you, and I have found that these are the persons who are firmly grounded in the basics. Students also make you think, because they approach the subject with originality and can surprise you with particular questions.
Really, the balance could be fifty-fifty. In fact, there are not that many people working at the University solely for conducting research, so, again, it is a good thing that people here are so efficient. Otherwise, we would not have such a long and impressing list of publications and presentations. In that sense, quite a lot is lost to education. I myself would also like to have a bigger appointment to do research, but I guess there is not enough room for that. So, no, the actual ratio is arbitrary, but education is essential for a person working at the University. I can spot immediately if somebody, who has written an article or book, teaches or is familiar with giving presentations and lectures.

Literature
What issues do you think are underexposed in the literature about tax law in general, and about CIVs in particular?

Many issues are underexposed in the literature, mainly the basics of CIVs. My intention is to close that gap. It is not so much the case that the international dimension or the problems with regard to EU law, the million-dollar question at the moment, concerning CIVs are underexposed. Those things are being pointed out in the literature and discussed, but what is lacking are the basics. The basics of CIVs, and what is lacking is a theoretical framework of CIVs, or rather the tax base of CIVs. Thus, in my research, I aim to give an answer to those questions and find the missing pieces of the puzzle.
I hope to do that by writing two books, one about the '*fonds voor gemene rekening*' (FGR), or Dutch fund for joint account. I would also like to write a book about the '*vrijgestelde beleggingsinstelling*' (VBI), or Dutch exempt investment institution. These would be more or less similar to the book I published in 2012 on the Dutch fiscal investment institution (FBI). Perhaps not as long but rather, two serious works about those two themes, because that is what is lacking in the field of CIVs. Well, articles are being written, but there is a lot of room for improvement. In short, I hope to publish some extensive literature on the subject of CIVs, in the line of the book I wrote last year, entitled 'The regime for the fiscal investment institution'.

Economics
Do you see taxation inherently as a part of economics or law? So, do you see yourself as an economist or a lawyer?

No, although I do really see myself as a lawyer as such, I do believe that law should follow the business. The reason why I work in this field is the fact that it is an economic given. It is happening and law, especially tax law, should not impede the economic reality. I see taxation as a legal field of study and that is how I see myself as a lawyer. I have in fact studied law and will go on studying law, but will keep an eye on reality and an open mind.

By: Astrid Cornelisse MA