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ABSTRACT

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Theme: Individual Rights and Information

Subtheme: Taxation and Ethics

Title of the paper: Tax privacy, Information Laws and Ethics

Information Laws provide citizens a platform to access information, ordinarily under the control of governmental authorities at the federal, state and local body level. Tax laws on the other hand have secrecy provisions about disclosure. The revenue departments act in a fiduciary capacity and tax payers are protected. The Information laws (e.g. the RTI Act of 2005 in India) override the Income Tax law, restricting its application in case of certain classes of information. Exercise of judgment that personal information shall or shall not cause invasion of privacy is left to the discretion of the authorities.

Rights guaranteed to the individuals depend upon the capacity of the state to fulfil them. Tax collection is an important function of the state and is a prime source of revenue for government. Generally, the tax culture and social structures are such that they encourage tax evasion. While the state aims at ensuring tax compliance, the social structure promotes “anti-tax” culture. Earlier the concept of tax privacy was enshrined in the regulatory setup but is less exceptional today. Tax information in the electronic age is subject to these critical issues of security of personal information. Concept of 'tax planning' has also evolved over time. Tax planning is a compliant behaviour. Tax avoidance on the other hand reflects lot of grey areas. The term 'tax avoidance' is used to refer to legitimate use of arrangements to obtain benefits which have not been intended by the government. Information laws are a step forward towards modern democracy but

need clarity and articulation to meet its intended objectives and also, protect privacy in connection to tax laws.

In light of the above, the paper shall discuss in detail the need of debate on privacy of tax laws and also, on dissemination of taxpayer information. The paper shall also look into the ethical perspectives of compliance of tax laws with information laws. All societal stakeholders must rise above the interpretation of letter rather than the spirit of law. The responsibility is on stakeholders to redefine societal responsibility towards tax collection and public disclosure. The Courts have upheld the importance of disclosure of secret information in public interest. They have observed that disclosure of information in regard to the functioning of the government must be the rule, and secrecy, an exception justified only where the strictest requirement of public interest so demands. On the other hand this should not undermine the integrity of the tax system. The paper shall discuss the reforms that need to be effectuated to protect public as well as individual interest. The paper shall also look into the positive consequences of dissemination of such information and its consequences towards society and state. The issue of fine balance between privacy and public interest shall also be discussed in detail.

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