ALLMÄNNYTTA SOM NORM I SVENSK SKATTERÄTT

OM INKOMSTSKATTEFRIHET FÖR IDEELLA FÖRENINGAR

Akademisk avhandling

som för avläggande av juris doktorsexamen vid Göteborgs universitet offentligt framläggs och försvaras fredagen den 21 maj 2010, kl. 10.00 i Sal E-43, Handelshögskolan vid Göteborgs universitet, Vasagatan 1, Göteborg.

av

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Abstract

Nick Dimitrievski. Allmännytta som norm i svensk skatterätt. Om inkomstskattefrihet för ideella föreningar. Public benefit as a Norm in Swedish tax law. Income tax exemption for Not-for-profit associations. Jure förlag AB, 480 pp. Stockholm 2010. ISBN 978-91-7223-391-1.

This is a thesis in Swedish income tax law. The subject of this thesis is the regulatory system governing the income tax-exempt status of public benefit not-for-profit associations.

The regulatory system for income tax-exempt status for public benefit not-for-profit associations (7:7-13 IL [Sw: inkomstskattelagen 1999:1229]) is legislatively designed to contain a large number of vague conditions, quantifications, and general concepts that need to be interpreted and applied by the Swedish Administrative Courts. This picture of a loosely-defined regulatory system includes the fact that no definite solutions are provided by the preparatory works. The income tax-exempt status for public not-for profit associations is therefore mainly based on decisions of the Supreme Administrative Court. But to a great extent there are no decisions providing guidance in hard cases.

This thesis is guided by three purposes. The first purpose is to analyze the effect of the legislative design of the regulatory system and its consequences from a legislative and judicial perspective. The second purpose is to ascertain the underlying values on which the regulatory system rests. Finally, the third purpose is to perform a critical analysis of the preparatory works and case law.

The study discusses the constitutional pressures inherent in the loose design of the regulatory income tax-exempt system for public benefit not-for-profit associations. The study also seeks to explain the public benefit norm as a principle of income taxation. To establish a theoretical model in which the legal sources (preparatory works and case law) can be analyzed, the author proceeds from Derrida's key terms such as trace and différance.

Keywords: NGO, Not-for-profit associations, Swedish welfare model, Globalization, Income tax exemption, Warm-glow, Theory of the Good, Principle.

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