

Droit fiscal

* Le droit fiscal : ensemble des règles qui fixent le régime juridique des impositions.

- Trois remarques peuvent être faites :

* 1ère RC : le droit fiscal est une discipline juridique (régime juridique)

- Mais c'est une discipline qui se laisse difficilement enfermer dans l'une des deux grandes branches du droit que sont le droit Public ou le droit privé.

• En effet par certains aspects, le droit fiscal se rapproche du droit public :

- le contrôle fiscal traduit la mise en œuvre de prérogatives de puissance Pque (pouvoir d'action d'office) ;
- le contentieux fiscal est calqué sur le contentieux adif,

• Par d'autres aspects, le droit fiscal se rapproche du droit privé :

- le droit civil (famille et foyer fiscal) ;
- le droit commercial (la forme de la soc. Conditionne l'application de l'IR ou de l'IS) ;
- le droit pénal (il existe un contentieux répressif fiscal) ;
- le droit de la comptabilité privée (le résultat comptable détermine le résultat imposable des soc soumises à l'IR ou à l'IS).

• Le droit fiscal est également très sensible au droit de l'UE (le régime de la TVA est essentiellement d'origine européenne).

• Le droit fiscal est aujourd'hui très réceptif au droit international :

- conventions de non-doubles imposition
- lutte contre l'évasion et la fraude fiscale internationale par l'intermédiaire de l'OCDE (exemple Apple en septembre 2016)
- imposition d'un taux minimum d'IS mondial de 15%.

• En conclusion le droit fiscal est une discipline transversale (carrefour) et certains ont pu même écrire que le droit fiscal était une discipline autonome par rapport aux autres disciplines juridiques (cela paraît sans doute excessif).

- Mais en revanche, le droit fiscal est un droit empreint de réalisme au sens où : nul ni personne n'échappe à l'impôt quel qu'il soit !

* 2ème RC : Le droit fiscal entretient des rapports étroits avec d'autres disciplines et

Regles Dequite En Droit Fiscal Quebecois Et Canadien

Robert R. Redfield



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