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Common sense at the Swedish Tax Agency: Transactional boundaries that separate taxable and tax-free income



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ABSTRACT

How does a tax collecting agency distinguish between taxable and tax-free income when the law says that all that all exchanges having value, regardless of compensation mode, are seen to constitute income? "By using our common sense" proposed one of the Swedish Tax Agency's legal experts. Common sense is here used as a frame for the boundary work that the Agency engage in-based on legislation, courtroom decisions, and praxis-while it pays attention to what Swedish taxpayers see as legitimate to tax. Six transactional boundaries are proposed that in different constellations distinguish the taxable trade from a helping hand. The analysis is based on an ethnography of publicly available documentation, rules, and regulations regarding income tax at the Agency's website. An ethnographic approach to these documents that are available to all taxpayers represents an apprehension of, and empathy for, the analytical concerns of both Agency and taxpayers. These documents represent the Agency as a collective of voices with a diligent aim to convey the same message for all taxpayers.

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1. Introduction

The principle behind income tax law in Sweden is simple: all exchanges having value, regardless of compensation mode, are seen to constitute income and ought to be subject to tax (e.g., Skatteverket, 2009b: 219). The issue seems straightforward enough, but recognizing that there are many types of exchanges how does the Swedish Tax Agency determine the boundary between a taxable and tax-free income? For example, why can Swedes pick and sell blueberries tax free (at least up to a sizeable amount), whereas a bouquet of flowers from the same forest is taxable? Or why is a poker prize not subject to income tax, whereas the winnings from a footrace are? And why is a certain amount of most sport activity fees deductible but horseback riding is not viewed as such an activity? I asked one of the Agency's leading legal experts how the Agency distinguishes between the taxable and the tax-free.¹ The reply was: by using our common sense, *sunt förnuft*.²

There are many assumptions initially presented here. Let me make them more explicit.

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¹ As a curiosum, the organization that represents the primary outspoken critics of high tax levels in Sweden, *Skattebetalarna*, publishes a magazine (eight yearly issues) for its members named *Sunt förnuft*. I doubt that the intention of the legal expert was to refer to this title.

² Other employees found the issue important and agreed on the room for interpretation. There was also one suggestion that the question might be better left alone.

As an outset I regard any given tax system evolving from and effecting social and cultural values (Boll, 2014a, 2014b; Gracia & Oats, 2012; cf. Lodin, 2011; Martin, Mehrotra, & Prasad, 2009; Mumford, 2002). In order to make people comply voluntarily, this means that both lawmakers and especially tax collectors need to make their actions legitimate; they are influenced by values held in society (Björklund Larsen, *forthcoming*; Gracia & Oats, 2012). Tax legislators and collectors have to understand the social and cultural implications of their actions and have to pay attention to what people think is if not acceptable so at least tolerable to tax. In turn, we taxpayers have to accept the principles of taxes (Lodin, 2007: 490) and the way taxation is carried out in practice (Björklund Larsen, 2013b; Boll, 2014a; Boll, 2014b).

A venue to understand this is to take seriously the legal expert's casual remark. As Clifford Geertz mused: "Common sense is not what the mind . . . spontaneously apprehends; it is what the mind filled with presuppositions . . . concludes" (1975: 16–17). Common sense is thus seen to encompass a relatively organized body of thought. This article aims to analyze how the notion of common sense is applied in income taxation at this Agency and what this application says about the social and cultural values regarding taxable exchanges in Sweden.

Income provides in this frame an especially resonant example. Income is mostly earned as an exchange of work for money that generally take place in an employment relation. Here is work seen as exchanges and a way to create social relationships and thus make society possible (Befu, 1977; Davis, 1992; Mauss, 1990).³ Market transactions (Maurer, 2005; Zalom, 2006), employment (Akerlof, 1982), gifts (Davis, 1992; Komter, 2007; Mauss, 1990), barter (Humphrey & Hugh-Jones, 1992), swaps (Ledeneva, 1998), lend of hands (Pardo, 1996), are all exchanges that have diverse intentions, characteristics, relational outcomes – and value. If this income can be tied to an economic value it is according to Swedish law subject for tax.

Needless to say, this income tax law is simple in theory but highly complicated to implement in daily practices. Therefore, to understand the commonsensical boundary between taxable and tax-free income, the ethnographic focus in this article is on the exceptions – those incomes that are explicitly described as tax-free among the Agency's public documents. Boundary work is an important facet of social life (Gieryn, 1983; cf. Zietsma & Lawrence, 2010) and to understand how boundaries between acceptable and unacceptable examples of tax avoidance (Gracia & Oats, 2012) or of tax-cheating (Björklund Larsen, 2010) can be and are altered, create possibilities for tax authorities to act. This article aims to contribute to ideas about boundary work as discussed by Lamont (1992) and more explicitly when performed in the field of taxation (Gracia & Oats, 2012). Instead of categorizing actors in respective field, I direct attention to exchanges as the qualities of these determine what is subject to tax.

This article has two aims. Firstly, it proposes six transactional boundaries – they are after all a result of exchanges. Although the interpretations are solidly based in the law, I argue that combinations of these boundaries show how the Agency pays attention to what citizens' view as legitimate taxation of income. These boundaries do not reflect a static definition but a process-oriented approach; they make explicit what issues this Agency has to consider when deciding which exchanges are taxable. As the Agency aims to make taxpayers comply voluntarily, these six boundaries determine a taxable trade from a helping hand.

Secondly, a methodological aim of this article is to direct focus to the "ethnography of documents" (Riles, 2006; Holmes, 2009, 2014). The object for study is documents at the Agency's website; publicly available and used by the Agency's auditors, by tax professionals and are also what most citizens rely on when preparing their yearly income statements. These documents are available to all taxpayers⁴ and represent a way to convey the same message for all. However, these documents are not only electronic artefacts to be downloaded, read and its content deduced into categories; they demand a response (cf. Riles, 2006: 21).

Based on legislation, courtroom decisions, and Agency praxis, I aim to discuss how the content of these documents do the boundary work between exchanges that are acceptable to tax and those that cannot be subjected to taxation. Although documents often describe events as written in stone, the continuous addition of new documents to the Agency's array of website information following changes to laws and court room decisions, make these documents seen as an entity take on a processual approach.

The article is long and therefore organized in two parts. The first section sets the stage presenting the theoretical framework and the field. Mainly inspired by Clifford Geertz but not restricted to his view, I start and discuss what can be said about society when talking about common sense. Followingly, I introduce "boundary work" and then proceed to the field by briefly introducing the Swedish tax system in a broad sense and in particular how personal income is treated according to the law. I then narrow down the view focussing on what an "ethnography of documents" can reveal and in particular applied to the documents produced by this Agency. In the second section, I first identify and describe the exchanges that constitute tax-free income. These exchanges are categorized according to context. Using this categorization, I finally propose the six transactional boundaries that in different set-ups divide the taxable from the tax-free income.

³ Implicit in this statement is the broader question of what implications this boundary, or this tax system, has on the way Swedes exchange, how they buy and barter, and when they are obliged to pay taxes and when they are not? However, this subject remains for future articles.

⁴ Even for citizen's without computers, there are publicly available computers at libraries and also at most Agency local offices.

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