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What is fiscal freedom? Some legal-philosophical clarification

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Abstract

This article attempts to shed light on the notion of fiscal freedom. It focuses, in particular, on how the relationship between freedom and taxation is commonly thought of, and how it could be rethought. It starts from an analysis of the ontological and epistemological fallacies and shortcomings of the well-known Indexes of fiscal freedom, based on a reductive notion of negative freedom. The "myth of ownership" versus "myth of state" debate is then analyzed to show the intertwining of negative and positive freedom in the notion of fiscal freedom. Furthermore, through the analysis of the problem of fiscal tyranny, as a problem of the limitation of taxing power, and the issue of certainty in tax law, it is shown how the notion of negative liberty is as necessary as it is insufficient. Finally, it is shown how the economic and empirical literature on tax compliance and tax morale, and the rediscovery of the category of reciprocity, can make a contribution to rethinking the problem of tax freedom and coercion.