

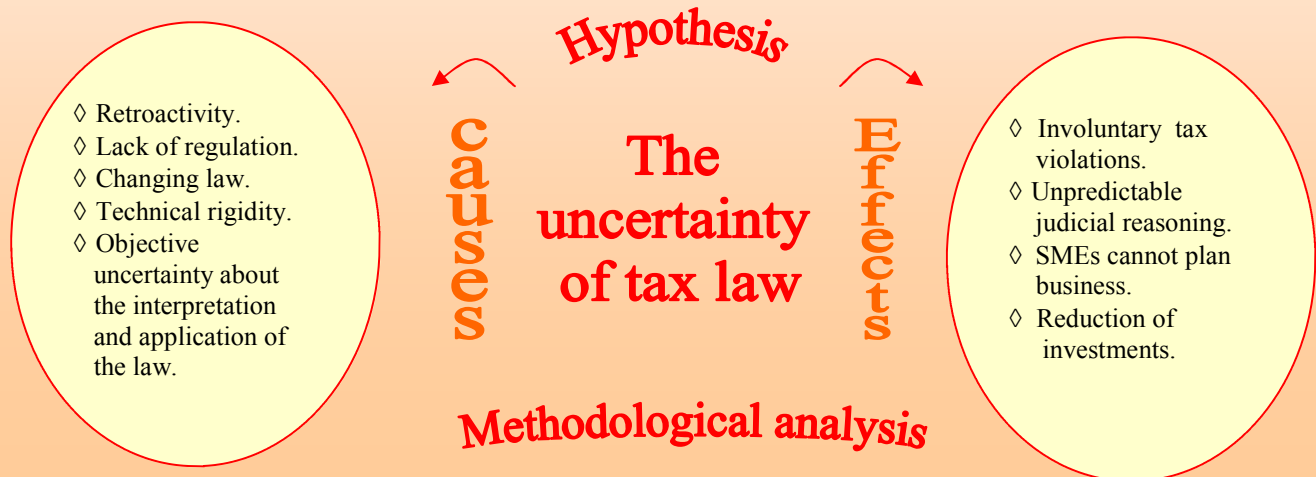
Tax violations, the uncertainty of tax law and the legitimate expectations of the taxpayer.

Context: Uncertainty in tax law, due to retroactive, variable and unclear rules, increases enterprises' difficulties in tax planning activities and damages their legitimate expectations. Uncertainty in tax law can especially affect SMEs' business activities because they are often lacking a tax department able to predict the fiscal consequences of investments and transactions, because this is challenging and expensive. SMEs need to foresee the consequences of their investing activities and financial operations.

Measures: Tax cooperative compliance may reduce legal uncertainty and prevent voluntary and involuntary tax avoidance.

Research question

How to prevent tax risk derived from the uncertainty of the law in SMEs?



Conditions of the uncertainty of the law

What are the objective conditions of the uncertainty of the law?
Can objective conditions of uncertainty be claimed as a reasonable excuse and exempt taxpayers from fiscal liability?
What kind of error can be claimed as excusable?

What standard of care is required in tax operations?

Legitimate expectations of taxpayers.

In the Italian and Spanish tax systems, the legitimate expectation is a general principle of law.
The Italian tax system also provides for this under a positive rule of law (art. 10, L. 212/00).

How does the principle of legitimate expectation affect the configuration of liability?

Cooperative compliance

The consequences of tax operations have to be predictable to plan business.
Cooperative compliance activities in SMEs are often challenging and expensive.

Some national tax systems adopted measures to facilitate SMEs in tax cooperative compliance activities.

Can a best practices' model of cooperative compliance for SMEs be designed?

The main objective of the thesis is to point out how the legitimate expectations of taxpayers affect sanctions resulting from tax proceedings. In particular, the thesis analyses the concept of the objective uncertainty of tax law, and to research how it can impact on SMEs' ability to carry out fiscal planning. The research will develop from the differences between the Italian and Spanish tax systems from the point of view of legitimate expectation and the causes of liability exclusion due to the objective uncertainty of law. It also aims to set out a tax-risk management system suited to the size and structure of the SMEs.



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