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Financial accounting and tax accounting: Germany and Sweden as examples

1 Introduction

The regulation 1606/2002/EC enforces the application of the IFRS[1] in the consolidated financial statements if securities of at least one entity of the group to which the entity belongs are traded on a regulated market in a member state of the EU.

According to article 4 of the IAS regulation, the obligation to set up consolidated financial statements commenced for accounting years beginning on 1 January 2005 or later.[2] Article 5 of this regulation contains two options for the implementation of the regulation into local laws for the member states of the EU. Member states can allow or oblige companies to set up consolidated financial statements according to IFRS as well as for other entities which do not use the capital markets or which use only non-regulated markets (non-publicly traded companies). Furthermore, member states can also allow their companies to set up the single financial statements according to IFRS.

Due to the increasing relevance of IFRS accounting in the EU, the following questions (which are discussed in this article) can be raised:

– What are the perspectives of local accounting?
– What are the consequences for tax accounting due to the changed position of local accounting?

An illustration of the German and Swedish situations will be used in order to shed light on the above-mentioned questions.

2 Current situation

2.1 Germany

In Germany, the authoritative principle of financial accounting principles for taxation[3] has a long tradition. The financial accounting principles of German commercial law must be adopted in the tax accounts in the absence of specific rules to the contrary.[4] The authoritative principle is substantiated by the

[1] IFRS stands for 'International Financial Reporting Standards', edited by the IASB (International Accounting Standards Board, London).

[2] See also the transition rule according to article 9 of the above-mentioned EC regulation.

[3] The German term is Maßgeblichkeitsprinzip.

[4] § 5 sect. 1 EStG (German Income Tax Act).

rationalization of bookkeeping and accounting and a uniform profit or loss for financial and taxation purposes.[5] During the past few years, the authoritative principle has been limited for fiscal reasons. Therefore, the authoritative principle tends to be more of a formal, non-dominating rule instead of a general overriding principle which, to the contrary, only applies if the tax rules do not prescribe special treatment in the tax accounts.

In Germany, IAS regulation has been transformed into the German commercial code (HGB) by the *Bilanzrechtsreformgesetz* (BilReG)[6]. In addition to the obligation of preparing the consolidated financial statements according to IFRS for entities whose securities are traded on a regulated market, the BilReG stipulates an obligation to prepare and publish consolidated financial statements also for entities which are in the process of filing their consolidated financial statements with a securities commission for the purpose of issuing any class of securities on a regulated market (in any member state of the EU).[7] There is also an option to prepare and publish consolidated financial statements for all other entities.[8] Lastly, there is an option to publish the single financial statements according to IFRS instead of German GAAP.[9] Nevertheless, the obligation to set up the single financial statements according to German GAAP still remains.

Before we discuss the possible alternatives for the future of the local financial statements and the tax balance in Germany, we shall present the objectives of these accounting instruments. A clear and singular objective for these financial statements according to the German GAAP is missing.[10] Pursuant to commentary and literature, the financial statements need to accomplish several functions. A clear hierarchy between these functions does not exist.[11] The following functions have to be accomplished by the financial statements according to the German GAAP:

- the information function – by respecting the German GAAP – about the financial position and performance,[12]
- the creditors' protective function,
- the function of the determination of the dividends to shareholders,[13] and
- the basis for taxation codified by the authoritative principle of financial accounting principles for taxation.[14]

Due to a missing dominating objective for the financial statements according to the German GAAP, there is a competitiveness between the different functions; the competition between the information function and the creditors' protection is just one example. Therefore, one or more functions might be sacrificed

[5] See Schildbach, Die Wirtschaftsprüfung 1998, p. 947, Eichhorn, Das Maßgeblichkeitsprinzip bei Rechnungslegung nach International Accounting Standards, 2001, p. 31.
[6] Starting in 1999, German stock-listed companies were allowed to set up and publish consolidated financial statements according to IAS/IFRS instead of consolidated financial statements according to German GAAP (§ 292 a HGB).
[7] § 315 a sect. 2 HGB.
[8] § 315 a sect. 3 HGB.
[9] § 325 sect. 2 a HGB. GAAP stands for 'Generally Accepted Accounting Principles'.
[10] See Coenenberg, Jahresabschluss und Jahresabschlussanalyse, 20. Aufl. 2005, p. 12.
[11] See, for example, Baetge/Kirsch/Thiele, Bilanzen, 6. Aufl. 2002, p. 91.
[12] § 264 sect. 2 HGB.
[13] § 58 sect. 2 AktG.
[14] § 5 sect. 1 EStG.

to a certain degree in order to attain a higher degree of accomplishment of the other functions. On the contrary, the only objective of IFRS accounting is to provide relevant information about financial position, performance and changes in financial position. IFRS accounting thus concentrates on the information needs of investors.[15]

Apart from fiscal interests, which may vary from generating additional government revenue to granting preferential tax treatment to finance an economic upturn, the objective of German tax law is generally based on the principle of taxation of the financial performance of the taxation subjects[16]. In spite of differing financial and social or political opinions about the substance of taxation according to financial performance, this generally means the application of the matching principle for the determination of the taxable profit or loss. The basis of the application of the matching principle is the recognition of revenues and gains according to the principle of realization.[17] According to the German commercial code and German tax laws, revenues and gains are normally realized if the realization process is finished by sale.[18]

Due to the foregoing analysis, the objectives of IFRS accounting and the German tax balance are quite similar.[19] Nevertheless, as the realization of revenues and gains by sale is not necessary in order to realize profits in the IFRS financial statements,[20] the principle of realization and the matching principle may differ in IFRS accounting and German taxation.

2.2 Sweden

Accounting is as important to Swedish tax law as it is to German tax law. The point of departure in Swedish tax law is the single financial statement of a company. This statement is then, to some extent, adjusted for fiscal reasons in the tax return of the company. For this reason, it could be stated that no special tax balance, in a real sense, is produced by a Swedish company. However, like the German conditions, there are three different sets of rules to comply with: the consolidated financial statements set up according to IFRS in groups where at least one entity is traded, Swedish GAAP applicable to single financial statements, and the tax rules.

As a general rule, taxation complies with civil law accounting, unless specified otherwise.[21] Since special tax rules mainly concern write-offs and other costs, the accounting is primarily of importance to periodisation of income.

From a Swedish perspective, the financial statements also have to support different functions. Apart from the information function, the creditors' function, the determination of the possible distribution to shareholders and the basis for taxation, a financial statement is also used to determine whether a company

[15] See Framework 10 und 11.

[16] See Biergans, Einkommensteuer, 6. Aufl. 1992, pp. 11 f.; Tipke/Lang, Steuerrecht, 17. Aufl. 2002, pp. 78 f.

[17] See Weber-Grellet, DB 1994, p. 289, Knobbe-Keuk, Bilanz- und Unternehmenssteuerrecht, 9. Aufl. 1993, p. 18, Spengel, Der Betrieb 2006, p. 681.

[18] See Tipke/Lang, p. 90.

[19] See Spengel, p. 682, Wollmert/Achleitner, Die Wirtschaftsprüfung 1997, p. 246.

[20] Compare the realization of valuation gains for financial instruments (IAS 39.55 a and IAS 39.89 a) or the realization of revenues from construction contracts (IAS 11.22).

[21] 14:2 Income Tax Act.

should be forced into liquidation.[22] In this respect, deviations from the single financial statement could be made as long as they are compatible with Swedish GAAP.

It is therefore not surprising that the accounting rules applicable to the single and consolidated financial statements largely differed even before the adoption of IAS/IFRS. Norms regulating consolidated financial statements in groups with shares subject to trading are traditionally heavily influenced by the older IAS regulations. Before the adoption of the IAS/IFRS, accounting recommendations for this category of groups were produced by the Swedish Financial Accounting Standards Council, an unofficial body run by a trust.[23] The recommendations of the Council often differed between the single and consolidated financial statements. While the recommendations concerning consolidated financial statements have been described as Swedish 'light' versions of IAS, the rules for single financial statements were more similar to the Swedish GAAP and tax rules. Therefore, it is obvious that the consolidated financial statements primarily fulfil the information function, while the single financial statement serves as creditor protection and a basis for taxation. This difference has naturally been emphasised more since the recommendations of the Swedish Financial Accounting Standards Council have been replaced by the IAS/IFRS recommendations.

3 Retention of local accounting according to national GAAP and the authoritative principle of national GAAP for taxation

3.1 Parallelism of German GAAP and IFRS accounting

The model of parallelism of German GAAP and IFRS accounting combined with the retention of the authoritative principle of financial accounting principles according to German GAAP for taxation reflects the current constellation in Germany. It is quite probable that the separation of the tax balance from financial statements will also increase in the future, so there are three relatively independent accounting systems.[24] Although there is no need for completely separate accounting systems, additional administration costs must be taken into account.[25]

In this situation, the question about the justification of the single financial statements according to the German GAAP could be raised especially because in the past few years, the information function has been lost to IFRS accounting. Furthermore, the relevance of the single financial statements according to the German GAAP for taxation has been decreased due to the increasing number of exceptions from the authoritative principle in recent years in Germany. As the single financial statements (according to IFRS) are the basis for the preparation of the consolidated financial statements (according to IFRS), it is probable

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[22] Chapter 25 of ABL (The Companies Act, 2005:551).

[23] As of April 2007, the Swedish Financial Accounting Standards Council (Redovisningsrådet) has been replaced by the Council for Financial Reporting (Rådet för finansiell rapportering).

[24] An additional indication is the reform of the entities' taxation in Germany, which will be in effect in 2008. See Deutscher Bundestag: BT-DRS 16/4841.

[25] See in detail Hirschberger/Karl, Deutsches Steuerrecht 2002, pp. 2188–2192 and pp. 2236–2240.

that the single financial statements according to the German GAAP might be substituted by the single financial statements according to IFRS. An indication of this threat to the single financial statements according to the German GAAP might be perceived due to the fact that there is already now an option to publish single financial statements according to IFRS instead of publishing the single financial statements according to the German GAAP.[26]

3.2 Parallelism of Swedish GAAP and IFRS accounting

Currently in Sweden, there is a model of parallelism between Swedish GAAP in the single financial statements and the IFRS recommendations in the consolidated financial statements in groups subject to the IAS regulation.

The connection between the Swedish GAAP and taxation has also been retained so far. Up until now, no development similar to the German situation with an increasing number of exemptions from the connection between financial accounting and taxation has been observed. Apart from the changes in the rules concerning valuation of assets that are actually a consequence of the approximation between Swedish GAAP and IFRS (and will be discussed in sections 4.2 and 5.2), the only observable disconnection between financial accounting and taxation in recent years has been the option to immediately deduct costs for rebuilding commercial premises. The right to immediately deduct these costs, which normally should be subject to write-offs instead, was introduced in the late 1960s in order to facilitate the work of companies to adjust the tax law treatment of these costs according to financial accounting.[27]

However, by the wording of the Income Tax Act, it appeared as an independent tax rule.[28] In its ruling in RÅ 2000 ref 26, the Swedish Supreme Administrative Court (*Regeringsrätten*) stated that immediate deductions of rebuilding costs for commercial premises could only be made if the costs had been deducted in the same way in the financial accounting. This decision was soon followed by a modification to the applicable tax rule by the legislator. It is now clear from the wording of the Income Tax Act that immediate deductions can be made in a tax return even if the costs in the financial statement are subject to write-offs.[29] Apart from this disconnection between the financial statement and taxation, there has been no other obvious trend in that direction.[30]

4 Material approximation of national GAAP to IFRS accounting

4.1 Germany

This constellation also includes three separate accounting systems. The functions of each accounting system are the same as in the current situation, shown in section 3.1. As long as only an approximation takes place, the three different accounting systems have to be reconciled. At present, this scenario seems

[26] See sections 6.1 and 7.1 and also § 325 sect. 2 a HGB.

[27] Government bill 1969:100, p. 132.

[28] 19:2 Income Tax Act in its wording before 1 January 2004.

[29] 19:2 Income Tax Act in its wording according to SFS 2003:1074.

[30] One reason for this is certainly the ongoing investigation regarding the future relationship between financial statements and taxation; see section 5.2.

quite realistic in terms of the near future. The above-mentioned BilReG and the planned *Bilanzrechtsmodernisierungsgesetz*[31] in particular support this approximation trend.[32] A material approximation of the German GAAP to IFRS accounting should be welcomed from a financial point of view, as financial statements according to 'modernized' German GAAP could fulfil both the information function to creditors and also to shareholders. However, this model is criticized in the actual discussion in Germany for the following reasons: The influence of IFRS accounting on the German GAAP will increase by means of this approximation process. As the authoritative principle is based on the German GAAP, IFRS accounting has an indirect effect on the tax balance. In order to avoid such effects, additional exceptions to the authoritative principle have to be fixed. This means that the tendency toward an independent tax balance will increase further. Furthermore, the model of the material approximation of the German GAAP to IFRS accounting is being criticized because the functions which the financial statements according to the German GAAP should accomplish will not be achieved.[33] In their discussion, the defenders of the local German GAAP raise the question as to why the financial statements which are approximated to IFRS accounting should provide a better result for the determination of dividends to shareholders or for creditors' protection.[34] In addition to a planned approximation process of the financial statements according to the German GAAP to IFRS accounting, a precise objective should be defined. As the current constellation is already missing such a precise dominating objective of financial accounting in Germany, the chances of a planned and structured approximation process are quite low.[35]

4.2 Sweden

In a Swedish perspective, some steps have been taken to approximate Swedish GAAP according to IFRS accounting. What is of great importance is probably the accounting of parent companies in groups subject to IFRS as regards their consolidated financial statements. As described previously, before IFRS was adopted, both the single and consolidated financial statements of companies belonging to groups in which the shares of at least one company were subject to trading were governed by the recommendations of the Swedish Financial Accounting Standards Council. Since the introduction of IFRS, these older recommendations have been abandoned. Instead, the Swedish Financial Accounting Standards Council has published a new recommendation with the specific aim that a parent company should as far as possible establish its single financial statement according to IFRS.[36] This is only possible to the extent that the IFRS recommendations do not interfere with binding regulations in the Annual

[31] On 8 November 2007, a draft was published by the German federal ministry of justice. See www.bmj.bund.de/files/-/2567/RefE%20BilMoG.pdf.
[32] See Spengel, p. 682.
[33] See section 2.1.
[34] Compare also the argumentation of the draft of the BilReG from April 2004 (www.bmj.de/files/-/649/Entw_BilReG.pdf). In chapter A.II.3 b), it is stated that financial statements according to IFRS are not suitable for determining dividends to shareholders.
[35] See section 2.1.
[36] RR 32:06, replaced by RFR 2.1 in 2008. See Knutsson, SN 2005, pp. 511–512.

Accounts Act (ÅRL).[37] For example, the possibility to evaluate assets at a market value according to IFRS is generally not compatible with the ÅRL. Sweden has not employed the option according to the IFRS regulation to allow companies whose stock is subject to trading to use the IFRS recommendations solely in their single financial statements.[38]

The ÅRL has also been altered in some cases in order to approximate the single financial statements according to IFRS. Since 2004, it is optional for a company to measure its financial instruments at their fair value.[39] The fair value of the instrument should be estimated in terms of the market value. Valuation to the fair value can only be accepted if all instruments belonging to a company are measured in this way. Some instruments, for example shares in subsidiaries, may not be measured at fair value.[40] The option to measure financial instruments was incorporated into the Annual Accounts Act after the modernisation of the EU accounting directives.[41] The aim of the modernisation process was to approximate the directives according to IAS 39 (Financial instruments, Recognition and Measurement).[42] In some cases a higher value should be accounted for in a special *fund for fair value*.[43]

Apart from the rules described above, special rules are imposed upon companies in the financial and insurance sectors. These companies are subject to special legislation applying to these sectors.[44] Moreover, the Swedish Financial Supervisory Authority, a government agency, has a special delegation for the publication of regulations pertaining to accounting in the above-mentioned trades.[45]

Furthermore, the legislator tried to accomplish an option to measure assets other than financial instruments at fair value in companies belonging to a group subject to IFRS.[46] These assets included biological assets, investment property and other tangible and intangible assets. The aim of this reform was for the single financial statement to correspond with the recommendations contained in IAS 16, IAS 38, IAS 40 and IAS 41.[47] However, after these rules were adopted, but before they entered into force, it was discovered that there was not any reasonable solution for the treatment of fair value valuations in taxation without jeopardising the principle of double taxation.[48] The measurement of these assets to fair value has been postponed until 2009.[49]

On the other hand, there is a process aiming to simplify the accounting rules for SMEs. Since February 2004, the Swedish Accounting Standards Board (*Bok-*

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37 Årsredovisningslag (1995:1554).
38 Art. 4, 1606/2002/EC.
39 4:14 a ÅRL.
40 4:14 b ÅRL.
41 Dir. 2003/51/EC.
42 Government Bill 2002/03:121, p. 31.
43 4:14 d ÅRL.
44 Lag (1995:1559) om årsredovisning i kreditinstitut och värdepappersbolag (ÅRKL), lag (1995:1560) om årsredovisning i försäkringsföretag (ÅRFL).
45 See Olsson, "Swedish Legal National Report", in Yearbook for Nordic Tax Research 2006, pp. 85–89.
46 4:14 f ÅRL.
47 Government Bill 2004/05:24, p. 92.
48 Government Bill 2005/06:25, pp. 79–81.
49 According to SFS 2005:918.

föringsnämnden), an official body, has been working on a new set of accounting recommendations for SMEs. These new recommendations, referred to as 'categories', will be largely based on simplifications of the existing Swedish GAAP.[50] Any tendency toward an approximation of accounting in SMEs toward IFRS has not been observed.

5 Discontinuation of local accounting and the authoritative principle for taxation

5.1 Germany

There are only two accounting systems in this scenario. The financial statements according to IFRS and the tax balance coexist and they are not linked together by an authoritative principle of financial accounts for taxation purposes. The determination of taxable profit is exclusively the function of the separate tax balance.

The information function to shareholders and creditors is accomplished by the single and consolidated financial statements, both according to IFRS.[51] As in IFRS accounting, short-term assets and short-term liabilities are to a much greater extent carried at fair values than in the German GAAP, so the users of IFRS financial statements get current and thus more illustrative information about the financial position of the entity. Furthermore, the cash flow statements contain additional opportunities for analyzing changes in financial position and the liquidity of the reporting entity.

In this scenario, the function of the determination of dividends to shareholders can be fulfilled either by the tax balance or also by the financial statements according to IFRS.

The accomplishment of the determination of dividends to shareholders by the tax balance can be supported by fiscal considerations, since in this case the basis for distributing profits to shareholders and for taxation is identical. If the function of the determination of dividends to shareholders should be fulfilled by the financial statements according to IFRS, this function can be based either on the P&L statement or on the cash flow statement.

In general, it is assumed in German accounting literature and accounting practice that due to the recognition of unrealized revenues and gains in IFRS accounting, the net income of the financial statements according to IFRS is often higher or at least recognized earlier than in German HGB accounting. Despite this opinion, if the whole life cycle of an entity or group is analyzed, the total profit or loss according to local GAAP is, with only a few exceptions, identical to the corresponding profit or loss according to IFRS.[52] Although the

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[50] Until now, only recommendations applicable to very small enterprises and small companies have been adopted; see BFNAR 2006:1 and BFNAR 2008:1.

[51] Compare the option of publishing single financial statements according to § 325 sect. 2a HGB and section 3.1 of this article.

[52] At present, the exceptions are the deduction of costs when issuing or acquiring own equity instruments according to IAS 32.37 and the direct transfer of revaluation surplus to the retained earnings if the revalued asset is derecognised (IAS 16.39). But also in these situations, a clear profit trend could not be derived. The first transaction leads to a higher profit in the overall period. On the other hand, the direct transfer of the revaluation surplus to the retained earnings implies a lower profit in the overall period in comparison to the application of the cost method (according to the German GAAP).

argument of the earlier profit recognition in IFRS accounting in comparison to German financial accounting principles is in most cases correct, it is nevertheless not universally valid.[53]

If the net income of the P&L statement is the general basis for the determination of dividends to shareholders, two alternatives are possible. As maximum dividend rates as a percentage of net income differentiated by sector[54] are impractical, it is being discussed in Germany whether to state a uniform percentage rate which can be distributed to shareholders (similar to § 58 sect. 2 AktG) or to adjust the net income for transactions which are not realized from a conservative accounting point of view (e.g. profits from construction contracts which are not already realized by sale or the valuation differences between fair value and historical costs of financial instruments or investment property).[55] The latter procedure also has some tradition in German accounting, because in the case of the capitalization of deferred tax assets or start-up and business extension costs, financial statements according to German GAAP exclude these capitalization gains from the determination of the (maximum) dividends available for shareholders.[56]

If the dividends should be linked to the cash flow statement, the cash flows from operating activities are generally appropriate for the determination of the (maximum) dividends. Nevertheless, a complete external financing of capital expenditures or acquisitions is not realistic. Therefore a possible basis for the determination of the dividends could be approximated by a 'free cash flow'[57] number. As the IFRS regulations contain several alternatives when preparing the cash flow statement,[58] additional definitions are necessary if the cash flow statement is to accomplish the function of determination of the (maximum) dividends to shareholders.

5.2 Sweden

In Sweden, the approximation of the single financial statements according to the IFRS recommendations has also led to severe doubts about whether a connection between the single financial statements and taxation can be retained. The changes to measurement according to fair value instead of historical figures are believed to lead to a premature taxation of unrealized profits, which would be contrary to the ability to pay principle.[59] This principle in Sweden has no constitutional grounds in contrast to Germany, but is nevertheless usually taken into account by the legislator.[60] Another reason for doubting the adequacy of IFRS for taxation purposes is the special Swedish system using untaxed reserves,

[53] In contrast to the deferral rules for profits on a sale-and-leaseback transaction (IAS 17.59), these profits are in German financial statements realized immediately by the sale (realization principle according to § 252 sect. 1 Nr. 4 HGB).

[54] For the effects on the net income of IFRS accounting in different sectors in comparison to the German GAAP and German tax law, see Spengel p. 684 f.

[55] Cf. Kahle, Die Wirtschaftsprüfung 2003, p. 269.

[56] See § 269 sent. 2 HGB and 274 sect. 2 sent. 1 HGB.

[57] The free cash flow is defined as the cash flow from operating activities reduced by the capital expenditures in the long-term and short-term operating assets. See Coenenberg p. 982 f.

[58] In this context, the direct and indirect methods of preparing the cash flow statement (IAS 7.18) and the options in IAS 7.31 and 7.35 for the disclosure of interest, dividends and taxes on income are mentioned.

[59] Government directive 2004:146, p. 6.

[60] See, for example, Lodin et al., Inkomstskatt, p. 24, Påhlsson, Inledning till skatterätten, p. 60.

which understandably do not have any equivalent in IFRS. A third reason is the aim to uphold the double taxation of dividends.

In September of 2008, a governmental commission presented a proposal for a disconnection between financial and tax accounting.[61] According to the proposal, the Swedish Income Tax Act will be amended with special rules regarding the timing for accounting of income and costs. It is however not a complete disconnection that has been proposed. To some extent it would be optional for a company to choose a different taxation principle than the principles regulated in the Income Tax Act.[62] In this way, it would be possible to maintain a connection between taxation and the financial accounting. It is also supposed by the commission that accounting rules for small enterprises and small companies will be adjusted against the taxation, so there in fact will continue to be connection between financial and tax accounting for these categories.[63] The proposals by the commission will not be realized until 1st of January 2011.

In the absence of any principal change in the general connection between Swedish GAAP and the tax system, a disconnection has been made regarding financial instruments that are stock assets. These instruments should normally be measured to fair value for taxation purposes.[64] This rule is applicable regardless of the valuation in the financial statement (4:14 a ÅRL), but has of course been introduced in order to make it easier for groups subject to IFRS to use the same valuation principle in the consolidated financial statement, the single financial statement and the tax return. Despite the fact that stock assets should be valuated to the lowest value principle, a loss that has occurred when a financial instrument is sold between companies within the same group and therefore ceases to be a stock asset cannot be deducted until the instrument has ceased to exist, is owned by a company outside the group or has again become a stock asset.[65] The value of a financial instrument measured at fair value should be raised if the company has distributed profit in a way that would not have been legal if the assets had been valuated in the same way as in the accounting, in order to uphold the principle of double taxation.

6 Possibility of an authoritative principle based on the IFRS accounting for taxation

6.1 Germany

This scenario also includes IFRS accounting for single and consolidated financial statements and the tax balance. The difference from the scenario shown in section 5.1 is that the single financial statements according to IFRS are the basis for the determination of the taxable profit. Analogous to the existing § 5 sect. 6 EstG, fiscal law can contain exceptions to this authoritative principle. In this case the parliament possesses – unchanged from the current situation in Germany – the right to exclude financial accounting rules according to IFRS from the application in the tax balance and to instead implement separate tax

[61] SOU 2008:80.
[62] SOU 2008:80, p. 23.
[63] SOU 2008:80, p. 27.
[64] 17:20 Income Tax Act.
[65] 17:20 c Income Tax Act.

accounting rules for specified and enumerated transactions or balance sheet items.

The single and consolidated financial statements and the tax balance accomplish the functions as shown in section 5.1.

The authoritative principle of IFRS accounting for taxation can – despite differences in detail[66] – be justified by the remarkable degree of conformity of the objectives of IFRS accounting and the tax determination in Germany.[67] Nevertheless, the chances of implementing this scenario are in the short-term quite slight for the following reasons: There is a dependence of fiscal revenues based on decisions made by a private non-governmental institution.[68] IFRS accounting contains – in comparison to the German GAAP – much more possibilities of discretion in accounting.[69] Some examples include the appraisal of future economic benefit as a prerequisite for capitalization of internally generated intangible assets[70] or the appraisal of the value in use for the purpose of the determination of asset impairment.[71] Due to the rule of law which is concretized in an unequivocal administration of the law, the tax determination must be based on taxable results which are, as far as possible, not influenced by appraisals or other possibilities of discretion.[72] The risk of fluctuations in tax revenues depending on the economic situation increases (e.g. measurement of financial instruments and investment property at fair value or indications that an asset may be impaired are not necessary indications for a sustainable asset impairment). Due to the high volume of fixed costs in government budgets, the fiscal interest is aimed at a stable and sustainable development of tax receipts over time.[73] Finally, especially in countries with an accounting tradition similar to IFRS accounting (countries with Anglo-Saxon accounting, e.g. USA), the tax balance is traditionally separated from the financial statements.[74] But this argument is weakened by the current development in Great Britain. In Great Britain, IFRS accounting as the basis for taxation is now embodied in law.[75]

6.2 Sweden

A connection between the IAS/IFRS recommendations and the Swedish tax system has not been seriously discussed in this country. Apart from the above-mentioned reasons as to why the international standards should not be used as a basis for Swedish taxation, there is also the argument of constitutional considerations. According to the Swedish constitution (RF 8:3), taxation rules can only be issued by the parliament (Riksdag). There is no legislation competence

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66 The major differences result from a deviating interpretation of the realization principle (see also section 2.1). Compare in this context Framework 76 and the realization principle in the EstG, which is based directly on the realization principle in § 252 sect. 1 nr. 4 HGB.

67 See Spengel, p. 682.

68 Compare the argumentation to the BilReG in section A. II. 3. b and Euler, Steuern und Wirtschaft 1998, p. 23, Herzig/Dautzenberg, Betriebswirtschaftliche Forschung und Praxis 1998, p. 34, Ballwieser, Finanzbetrieb 2001, Beilage KoR 4, p. 114.

69 Cf. Kirsch, Steuer-journal 2005, no. 23, pp. 27–31.

70 IAS 38.57 d and 38.60.

71 IAS 36.59 and 36.18.

72 See Budde/Steuber, Deutsches Steuerrecht 1998, p. 504; Kahle, Die Wirtschaftsprüfung 2002, p. 180.

73 Compare the argumentation of the BilReG in section A. II. 3b.

74 See Kahle, p. 180.

75 See Schön, Tax Law Review 2005, p. 118.

regarding taxes given by the constitution either to the government or to any private institution. In order to explain the constitutional grounds for the connection between accounting, which to a large extent is based on privately accomplished recommendations, and taxation, it is usually stated that the authority of the accounting only concerns the timing or periodisation of an income or, more rarely, of a cost.[76] The Income Tax Act regulates whether an income is taxable or not. It has however been challenged whether the truth is as simple as this. The division between the periodisation of an income and the question of tax liability is not clear-cut.[77] The accounting rules may to some extent also interfere with the question of tax liability. It has in this respect been viewed as highly problematic in a constitutional perspective if Swedish tax law were dependent on the privately adopted recommendations of IASB.[78]

7 Conclusions

7.1 Germany

Although it is difficult to draw up a forecast for the development of financial accounting and taxation, especially with the BilReG, there are indications of an approximation of the local GAAP to IFRS accounting in Germany. Despite the problems linked to the approximation process, this leads, at least in the long run, to the question of the justification of financial accounting according to 'modernized' German GAAP. Thus, in the long run, there is a reasonable probability of a scenario with a co-existence of single and consolidated financial statements according to IFRS on the one side and of the tax balance on the other side, and in which financial statements according to the German GAAP do not exist any more.

7.2 Sweden

In a Swedish perspective, it is most likely that some change in the connection between financial and tax accounting. However, it is to early to predict if the proposal set forward by the governmental commission will be realized. The commission was not unanimous. There were several reservations, both from the tax administration and the business world. Probably some modifications of the proposal will have to be made.

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[76] See, for example, Alhager & Alhager, Sambandet mellan redovisning och beskattning, pp. 21–22.

[77] See Kellgren, SN 2003, pp. 326–329.

[78] Questions regarding the connection between financial and tax accounting and the Swedish constitution are discussed in SOU 2008:80, pp. 169–192 and 208–209.