

A different role of taxation.

Using fiscal leverage as an incentive to foster regeneration of common goods and improve the performance of public governance

*Antonio Perrone**

1. Regeneration as an administrative “function” and its link with taxation

A summary analysis of the issues concerning public governance, co-production or forms of cooperation between private and public bodies to foster the efficiency and the effectiveness of public expenditures, may suggest that those issues have not so much in common with taxation.

In fact, in the collaborative effort involving public and private sectors to reach the aim of analysing and solving, with a sharing approach, wicked problems carrying social aspects, which directly influence the quality of life, the role taxes may play may not be perceived immediately.

Indeed, an in-depth study may open a different perspective and may identify a specific role of taxation, considering it as an incentive tool suitable to foster forms of integration between public and private sector with the aim of pursuing common strategies.

A good starting point for the present study may be the analysis of a mainly juridical phenomenon, constantly evolving and studied by several scholars, known in Italy as *regeneration of common spaces and goods*, or simply *regeneration*.

Regeneration is nowadays considered as an administrative “function” consisting, in the first place, of a set of activities aiming to care, protect, reconvert and reuse common goods that are already owned by the community but have lost their original function or are difficult to exploit because of their state of degradation and abandonment¹. In such framework, the *regeneration* concerns mainly urban goods and spaces, or, at least, specific areas.

Lots of examples could be mentioned. A dismissed industrial site that is reconverted with a different use² (a multimedia cultural centre, a museum or a picture-gallery).

* Associate Professor – Department of Political Science and International Relations – University of Palermo. Coordinator of a master's degree course and author of over 25 publications on tax issues.

¹ E. CHITI, *La rigenerazione di spazi e beni pubblici: una nuova funzione amministrativa?*, on *La rigenerazione di beni e spazi urbani. Contributo al diritto delle città*, by F. Di Lascio, F. Giglioni, Il Mulino, Bologna, 2017, 15. <https://www.mulino.it/isbn/9788815271280>.

² D. HARA, *Market Failures and the Optimal Use of Brownfield. Redevelopment Policy Instruments. National Round Table on the Environment and the Economy*, Canadian Economics Association 37th Meeting. <https://economics.ca/2003/papers/0245.pdf>.

Abandoned (or decayed) ancient buildings that represent part of the cultural heritage of a community, recovered with the aim of making them enjoyable. Nevertheless, it could simply be a neglected or abandoned public park or street, reconverted to make them accessible and enjoyable.

According to such point of view, the *regeneration* of urban goods and spaces shows some points in common with the so-called *circular economy*, because it is inspired by the same principle of making resources usable in a circular context, exploiting already existing goods and reconvertng them in different usable ways.

However, *regeneration* concerns not only urban goods, but also intangible goods, such as the environment, the air and water quality, etc.

Regeneration, conceived as a “function”, may be considered as an example of public and private cooperation; an activity to which both contribute. As a matter of fact, the true innovative aspect of *regeneration* is the role played by private citizens who, by substituting or collaborating with public administrations, participate in the regeneration and reuse of goods and urban spaces. The new function of “*regeneration*”, as studied by administrative law scholars, is a “bottom-up” phenomenon, born from the voluntary initiative of citizens who decided to start taking care of their territorial goods and spaces³.

It is not questioned that “*regeneration*” is a public function, for it is a mainly public aim, mostly related to public administration duties, to take care of common goods. However, public bodies, for different reasons, among which also falls (and with a non-marginal role) the reduction of their financial budget, failed to adequately and efficiently manage the public function of “*regeneration*” of common goods and spaces. It is exactly the public administration inaction that has called for the private citizens intervention, who substituted (the so-called “*subsidiarity*”) or collaborated with (the so-called “*cooperation*”) public authorities in recovering and reusing urban spaces and goods.

In the Italian context, this phenomenon has gradually gained legal recognition. This means that citizens’ activities have been legally recognized and have obtained a first form of regulation through the so-called “*patti di collaborazione*”⁴ (cooperation agreements), provided for in the regulations of lots of municipalities. What is most relevant is that these “agreements” recognize that citizens’ activities pursue a public interest. In particular, municipalities have recognized that citizens’ activities pursue not only the interest of the public administration, but also a general interest of the community.

In the Italian context, this legal recognition process moved from a “local” to a “national” level. Not only municipalities with their regulations, but also the State with its

³ The role of “active citizens” in regeneration process of common goods is fully studied by G. ARENA, *Codice del Terzo Settore, volontari e beni comuni*, <https://www.labsus.org/2017/09/codice-del-terzo-settore-volontari-e-beni-comuni/>.

⁴ F. GIGLIONI, *La rigenerazione dei beni urbani di fonte comunale in particolare confronto con la funzione di gestione del territorio*, on *La rigenerazione di beni e spazi urbani. Contributo al diritto delle città*, by F. Di Lascio, F. Giglioni, Il Mulino, Bologna, 2017, 209. <https://www.mulino.it/isbn/9788815271280>.

laws recognized the general interest pursued by citizens' *regeneration* activities and some of these activities find today a recognition and regulation in D. Lgs. n. 50/2016 (the so-called "*codice dei contratti pubblici*").

Therefore, the *regeneration* function may be considered as an efficient example of public and private cooperation, aiming to improve the level of well-being of the community, insofar as it makes some urban spaces and goods enjoyable, creating a benefit instead of a cost for municipalities. At the same time, the recognition of legal legitimacy to the *regeneration* represents the legislator's acknowledgement of the positive effects of public and private cooperation.

Until now, the legal relevance of *regeneration* has been discussed as a form of co-production, in administrative law; but the role of taxation in this process has not been analysed yet. Nevertheless, just a simple consideration shows that the introduction of *regeneration* in the tax area is almost unavoidable since, as already said, it pursues general interests concerning the people of a community. Thus, it may be argued that *regeneration* and taxation have an, at least partially, coinciding aim. Both pursue a general interest: *regeneration* in a mostly definite and direct way; taxation in a mostly expanded and indirect way.

On the one hand, *regeneration* activities pursue those interests through a direct role of the citizens, immediately aiming to take care and reuse communities' urban goods and spaces. These goods, insofar they are common and shared, carry a specific interest of the community. Therefore, *regeneration* pursues interests of a defined community. On the other hand, taxes aim at financing public spending, also employed to pursue general interests, among which we may number, at least locally, the same interests citizens pursue with their action aimed at regenerating both functions and utility of common goods that would otherwise be irreparably lost.

This coincidence of goals is plastically evident in urban contexts since, as already said, in that framework *regeneration* develops the unexpressed potential of abandoned ancient buildings or of dismissed industrial areas⁵. However, these same goals may be pursued by public bodies of municipalities. Indeed, these activities traditionally belong to local authorities, and citizen's intervention is "subsidiary", not exclusive. It is clear, then, that to carry out those activities and to pursue those goals local public administrations use financial resources coming from taxes, partly from local taxes and partly from national taxes transferred to local authorities. Therefore, taxes may be used by public authorities to pursue the same objectives that both active citizens and public authorities can reach through *regeneration* actions. Thus, the mentioned coincidence of goals between taxation and *regeneration* is tangible and concerns, in particular, their goods and purposes. It is about making functional potentially useful common goods, that, without those interventions aimed to their reuse or different use (public or private), would be inevitably deteriorated. In one word, such coincidence of goals is a

⁵ M. PASSALACQUA – T. FAVARO, *Rigenerare siti industriali dismessi attraverso un "sistema" giuridico incentivante*, on *Ri-conoscere la rigenerazione. Strumenti giuridici e tecniche urbanistiche*, by M. Passalacqua, A. Fioritto, S. Rusci, Maggioli, 2018, 61. <https://www.ibs.it/ri-conoscere-rigenerazione-strumenti-giuridici-libro-vari/e/9788891628633>.

coincidence of pursued interests that belong to a defined community. *Regeneration* tries to immediately achieve those interests through active citizens; taxation tries to indirectly achieve those interests, by giving local authorities the financial resources to realize them. It is not by chance that, at least in Italy, a developing push to citizens' *regeneration* activities was determined by a severe reduction in the financial resources of local authorities, due to cuts in revenue transfers not replaced by a raise in local taxes.

What could the fiscal effect of the highlighted coincidence of goals possibly be?

First of all, although it is a really complex issue that cannot be dealt in a comprehensive way in the present paper, it could be argued that *regeneration* activities are an alternative way to contribute to public spending; thus, it is a different way to pay taxes. More generally, it may be argued that the highlighted coincidence of goals and the fact that *regeneration* pursues interests of the community (although of a defined one) both allow the use of taxes as a tool to foster *regeneration* as well. For example, in Italy, not only regulation of municipalities but also State laws have provided for the possibility to use local taxes in support of *regeneration* activities. In this regard both art. 24 of D.L. n.133/2014 and art. 190 of D. Lgs. n. 50/2016 are worth being mentioned. These laws pursued the goal to foster *regeneration* by recognizing tax benefits to those citizens (or citizen associations) who voluntarily engaged in activities aimed at taking care of common goods and spaces. In short, tax benefits were used as an incentive.

However, if tax benefits are to be used for these purposes, some technical difficulties need to be faced. First of all, it is crucial not to consider those benefits as a payment for citizens' activities, both in substitution and in cooperation with local public authorities. Taxes (also local ones) cannot have a compensatory function, because this kind of pecuniary considerations lead to a form of economic exchange between the citizen's activity and tax expenditure, which is totally unrelated to both the nature and structure of taxes. Apart from this consideration, practically speaking, it would be particularly difficult to quantify the value of an active citizen's performances (especially when its contribution is given within an association) in a way that would qualify tax benefit as a kind of payment. Because of these difficulties, the use of tax benefits as a tool to foster *regeneration*, already limited in our legal system, has been further reduced and the mentioned art. 24 of D.L. n.133/2014 has recently been repealed. Shall the role of tax benefits as a fostering tool of regeneration therefore only be extremely limited?

2. Using taxes as a fostering tool for regeneration in a new perspective

Besides the mentioned technical difficulties and the impossibility to configure the relations between citizens' activities and tax benefits as an economic exchange, it is the opinion of the writer that the role of taxation should not be restricted to the point of being cancelled. Taxes may still act as a fostering tool. However, to reach this goal a different perspective is needed, one that – in the first place – does not concern the relationship between *regeneration* and tax benefits, but the current role of taxation itself.

What may be the role of taxation today? Through the years, has its function remained unchanged or did it develop a new perspective?

Certainly, taxes have been, and continue to be, the main form of financing public spending. They distribute tax burden among taxpayers and make for the economic resources States use to finance both its “*allocative*” and “*distributive*” functions, through disbursements, provision of public services, construction of infrastructures, grants, etc.

Along with its “natural” dimension, taxation has historically developed a different function, in Italy called “*extra-fiscalità*”. In this different perspective taxes are regarded as a tool aimed at reaching typical public spending goals, not through collecting money from taxpayers and reconvertng that money into public services, but through a reduction of fiscal burden, which provides the beneficiary with the same economic results that would be obtained through public spending. In other words, the benefit normally linked to public spending, i.e. the economic utility that the beneficiary can obtain, can be reached both with the provision of spending, and the reduction of tax burden. The so-called *extra-fiscalità* reaches this latter objective, allowing an economic utility directly linked with tax saving. The ultimate goal of economic utility is substantially the same, but public spending reaches such goal directly, instead of gaining it indirectly through a reduction of tax burden⁶.

An example could further clarify the concept. A given tax benefit on renovation works concerning privately owned buildings could be granted because those works, for different reasons, pursue a general interest (boost of construction business, making buildings compliant with the energy saving modern legislation, etc.). This goal may be reached directly, by providing contributions to real estate owners, or else indirectly by granting the owners a tax benefit in proportion of the expenses borne for the renovation of their buildings. Therefore, tax benefits indirectly pursue the same objectives a contribution may reach directly.

However, following this classic scheme, tax burden reduction is out of taxes structure and nature, because the ratio pursued is not that typical and “instrumental” of taxes, i.e. collecting revenue to finance public spending. This way, tax burden reduction pursues a final goal which is already allocative and redistributive, implicitly comparable to that of public spending. In other words, pursuing an allocative and redistributive function not through public spending, but with tax burden reduction, has been so far considered an action not related to the intimate structure of taxes that goes beyond taxation aims, because the objective it aims at is already a “spending function” and not a collection of revenue. That is the reason why Italian scholars had defined tax burden reduction, or tax benefits in general, as an implicit form of public spending, or in term of *tax expenditures*.

This made it possible to effectively frame tax benefits from a functional point of view, inasmuch the common factor they show, beyond the different forms and types of legal

⁶ S. LA ROSA, *Scritti scelti*, Vol. I, Giappichelli, Torino, 2011 (<https://www.libroco.it/dl/Salvatore-La-Rosa/Giappichelli-Editori/9788834827048/Scritti-scelti-Scienza-del-diritto-ed-evoluzione-delle-discipline-tributarie-L-interpretazione-delle-leggi-tributarie-e-l-elusione-fiscale/cw64593245211980.html>); A. GUIDARA, *Agevolazioni fiscali*, on *Diritto on line* (2013). [www.treccani.it/enciclopedia/agevolazioni-fiscali_\(Diritto-on-line\)/](http://www.treccani.it/enciclopedia/agevolazioni-fiscali_(Diritto-on-line)/).

regulation, is the specific “function” to which they tend. A not strictly “fiscal function”, i.e. the distribution of tax burden through taxpayers, but a redistributive function, i.e. a “spending” function. Precisely, an “implicit spending function”.

Therefore, tax benefits, as far they did not pursue a typical taxation aim, traditionally remained outside the area of taxation (in the proper sense of term) and fell within the area of “extra-taxation”; i.e. such kind of benefits aim at a purpose that may be achieved by means of tax tools, but are not a typical tax purpose. To describe this concept, Italian scholars use the term of “*extra-fiscalità esterna*”.

This traditional approach, which clearly distinguished “taxation” from “extra-taxation”, is no longer unquestionable today and can be studied with a different perspective. In recent years, EU pursued an environmental tax policy and issued a series of Directives concerning the so-called “environmental taxes” (such as *carbon tax*, *waste tax*, etc.)⁷, whose mandatory parts have been implemented by most of member States. The main characteristic of these taxes is that they not only pursue the typical purpose of collecting revenue, but also aim to directly achieve a public interest or benefit, that is not unrelated to taxes and has become part of their structure and purpose. “Environmental taxes” are eclectic, for they were established not only with the purpose of collecting revenue from taxpayers, but also to burden pollution or the waste of scarce primary resources (such as water, natural mineral oils, etc.) on human activities. Therefore, these taxes by definition pursue the community’s purpose of taking care of the environment and their peculiar characteristic is that their final aim is not to be applied (the more those taxes work in reducing pollution, the less they will be applied).

In this case, pursuing a general interest of the community (environmental care) is not an “external” goal of taxes, i.e. a goal which can be achieved through revenue collected by taxes; it is rather an “internal” goal, for it is part of their structure and their *ratio*, insofar as they aim to discourage polluting activities.

⁷ The issue concerning environmental taxes in EU has been fully studied by Italian scholars. For some essential references, see F. GALLO, F. MARCHETTI, *La tassazione ambientale*, in *Rass. trib.*, 1999, 115 (<https://shop.wki.it/periodici/rassegna-tributaria-s13661/>); C. VERRIGNI, *La rilevanza del principio comunitario “chi inquina paga” nei tributi ambientali*, in *Rass. trib.*, 2003, 1614 (<https://shop.wki.it/periodici/rassegna-tributaria-s13661/>); P. SELICATO, *La tassazione ambientale: nuovi indici di ricchezza, razionalità del prelievo e principi dell’ordinamento comunitario*, in *Riv. dir. trib. int.*, 2004, 277 (www.biblio.liuc.it/scripts/essper/ricerca.asp?tipo=scheda&codice=11213528); S. CIPOLLINA, *Osservazioni sulla fiscalità ambientale nella prospettiva del federalismo fiscale*, on L. Antonini, *L’imposizione ambientale nel quadro del nuovo federalismo fiscale*, Napoli 2010 (<http://www.jovene.it/schedaLibro.aspx?idLibro=38325>); F. BATISTONI FERRARA, *I tributi ambientali nell’ordinamento italiano*, on *Riv. dir. trib.*, 2008, 1094 (www.rivistadirittotributario.it/2017/04/12/rivista-diritto-tributario/); R. ALFANO, *I tributi ambientali. Profili interni ed europei*, Torino, 2012 (<https://www.libreriauniversitaria.it/tributi-ambientali-profilo-interni-europei/libro/9788834829721>); S. DORIGO-P. MASTELLONE, *La fiscalità per l’ambiente. Attualità e prospettiva per la tassazione ambientale*, Roma, 2013 (www.aracneeditrice.it/index.php/pubblicazione.html?item=9788854864610); A. DI PIETRO, *La fiscalità ambientale in Europa e per l’Europa*, on (A. Di Pietro) *La fiscalità ambientale in Europa e per l’Europa*, Bari, 2016, 12 (http://www.cacuccieditore.it/catalogo/images/66115366_Di%20Pietro%202016.pdf); G. SELICATO, *Fiscalità ambientale in Europa*, on (A. Di Pietro) *La fiscalità ambientale in Europa e per l’Europa*, Bari, 2016, 12 (http://www.cacuccieditore.it/catalogo/images/66115366_Di%20Pietro%202016.pdf); A. PERRONE, *Fiscalità ambientale per l’Europa*, on (A. Di Pietro) *La fiscalità ambientale in Europa e per l’Europa*, Bari, 2016, 12 (http://www.cacuccieditore.it/catalogo/images/66115366_Di%20Pietro%202016.pdf); A. URICCHIO, *I tributi ambientali e al fiscalità circolare*, on *Riv. dir. trib.*, 5, 2017, 1849 (https://issuu.com/dirittotributario/docs/rivista_5_2017_sfogliabile).

Environmental taxes still pursue traditional goals, for they are inspired by the *Polluter Pay Principle* (PPP) and use collected revenue to reduce negative externalities linked to polluting activities. Nevertheless, their ratio - which reflects their structure - is polyhedral, as they not only aim to cover external diseconomies using public spending (financed through their revenue), but also aim to avoid, or at least reduce, the polluting activities in itself. Thus, the general interest of the community pursued is no longer “external”, but becomes “internal” to tax structure. In other words, this interest does not concern “extra-taxation”, but “taxation” itself. This way, traditional tax functions get a new perspective. Taxes are not only traditional tools used for collecting revenue to be allocated to public spending, but are also new tools directly used to pursue a public interest, i.e. a public utility related to a given community.

What about the outcome of those kind of taxes? Did they actually affect the environment? It may be said that they resulted in:

- an effective reduction of polluting emissions, as the industrial processes have gradually reconverted using eco-friendly production models and foreseeing the possibility of re-using products at their life-end. Furthermore, pursuing a typical goal of “circular economy”, those products are not considered as wastes or refuses, but as reusable goods;
- a so-called “double-dividend” effect, as those taxes partially increased the revenue of member States who implemented the related Directives, allowing a partial reduction of labour taxes;
- positive effects in terms of competitiveness for those businesses who implemented the Directives on environmental taxation, as market has gradually turned to eco-friendly products, thus penalizing businesses that continued to produce highly polluting goods. Anyway, it must be underlined that the latter effect is limited to the EU context, as in the international framework, the opposite effect has been witnessed instead. EU businesses, who accomplished an environmental tax policy, were penalized in the global market, as they had to bear the cost of environmental taxes, which don't burden extra-EU businesses.

The experience of “environmental taxes” shows that taxation today may pursue a different function. Taxes can be used not only for collecting revenue to finance public spending, but also to directly achieve a general interest of the community, i.e. a social or economic utility.

It is the opinion of the writer that this “new function” of taxation can be achieved in two different ways: with a burden directly addressed to activities which reduce the utility (meant as general benefit) for a community (that is what environmental taxes do); reducing tax burden to foster activities which directly pursue the utility of the community (among which *regeneration* activities may be considered).

Both these actions concern “taxation” in itself, as it should be clear that, in this context, the possible reduction of tax burden - just like the use of tax burden in the opposite way - does not aim at the pursue of an “extra-taxation” purpose, but at a

proper “taxation” purpose, i.e. a goal that is part of the internal structure of taxes. In fact, if the aim to achieve general interests can also be “internal” to taxes (that is, related to their function and their structure), then both tax burden and reduction of tax burden become tools to reach that specific (and innovative) goal. They become a direct expression of “taxation”.

Therefore, the term “tax benefits” can be maintained, but it should be clear that this term is used in the a-technical sense. Precisely, it doesn't refer to tools that pursue the traditional extra-taxation goal, but to a peculiar function of taxes, aimed at achieving a new type of fiscal goal.

3. A different relationship between taxation and regeneration

What are the consequences of this new perspective?

The first and more immediate one is the different conception of the link between tax benefits and citizens' activities. Tax burden reduction is no more allowed for the exercise of such activities in itself, i.e. *inside* them (because the main aim is to achieve directly some goals that a given tax achieves indirectly); it is allowed because the activities in itself pursue a utility directly linked to a general interest of the community. Such utility, in this new perspective, is no more an external goal of taxation, a goal that taxes pursue indirectly; it is part of the nature and structure of taxes; therefore, a goal that taxes may pursue directly. The immediate consequence is that any kind of connection, relation – and even less, correspondence – between tax benefit and a private citizen's action aimed at achieving a general interest is no longer needed. Any kind of, albeit weak, coincidence of objectives between citizens' action and goals related to a given tax revenue is not necessary any more. What is needed is instead just the recognition of a general benefit resulting from the citizens' action; i.e. the acknowledgement that citizens, through their action, are pursuing a general interest of the community. Therefore, their action shows an intrinsic economic-social utility in itself.

The second consequence, directly descending from the first, is that any kind of link between citizens' action and a given type of tax is no longer needed. Tax burden reduction is no longer allowed because the citizens' activity pursues the same, or at least similar, final destination of a given tax revenue (for example: reduction on waste taxes linked with citizen's actions aimed at the collection of waste), but because of the acknowledgement that the citizens' action pursues a general interest of the community (such as environment in general, or cultural heritage, or common goods and spaces care). Furthermore, in this new perspective, pursuing those interests may no longer be considered an external objective of taxation, but an internal one, that can be achieved directly through contributions or subsidies, or indirectly through tax burden reduction. In short, it is not necessary to focus on the tax benefit-activity relationship, but rather on the activity itself. Whereby, if a given citizens' activity pursues in itself a utility for the

community, taxes can be used not as a kind of payment for those activities (which is hardly justifiable if bearing in mind the traditional, and yet unchanged, nature and structure of taxes), but as a tool to foster them. In this perspective, tax burden reduction is just a way to foster a useful activity for the community, and this can be applied to any kind of tax.

All this leads directly to the third consequence, that is the possibility of using any kind of tax. Not only those related to divisible public services (for example, taxes of local administrations), but also those related to provision of indivisible public services (such as income taxes). As a matter of fact, if the aim is in itself to foster those activities, if such goal can be achieved directly through taxes (just like the environmental taxes), and if any kind of inherence between useful citizen's actions and tax benefits is not necessary, it may also be argued that not only taxes related to divisible public services, but also income taxes can be used as fostering tools.

In short, the new dimension of modern taxation gives a different portrait of the relation between taxes and *regeneration* activities. That "circumscribed" logic which in Italy inspired both art. 24 of D.L. n.133/2014 and art. 190 of D. Lgs. n. 50/2016, confining the use of taxes to those providing for divisible services is no longer needed. The new way to foster *regeneration* could go through the use of income taxes too, opening a new horizon in the relationship between *regeneration* and taxation.

4. Another change of perspective: from a "top-down" to a "bottom-up" approach; from a "one-sided taxation" to a "circular taxation"

It has been shown that environmental taxes are a good example of a new taxation perspective, insofar as they burden polluting activities, not only to collect revenue, but also to discourage such activities, directly aiming to pursue a social and economic utility (environment care) which is already of public interest. Yet, one of the main characteristic of the EU environmental tax policy is the "top-down" approach which consists of all the political strategies conceived by European institutions, implemented by member States, and is not a process in which citizens have played a role, by sharing decisions with the institutions or, at least, by giving their contribution. The only decision makers of the EU environmental tax policy were the EU Institutions.

The *regeneration* approach is completely different, since it is a "bottom-up" approach. The first step, in regeneration policies, is properly the shared consultation of the aims to reach. *Regeneration* goals, unlike those relating to environmental tax policies, are not decided at the top of public authorities, in a hypothetical public administration control room, but come from collaboration agreements between public and private bodies. What is really innovative in the *regeneration* actions is the approach to policies, since the diagnosis of the issues to face is not one-sided, it does not come from the top of Institutions, but needs a sharing approach which enhances citizens' role. Indeed, citizens

are precisely those who carry out the first part of the diagnosis process of the issues, since they live in their territories and therefore can better understand its related issues.

Therefore, for example, the idea to reconvert a disused industrial area, or to recover an ancient building with intrinsic cultural value, often comes from citizens – or, even better, from citizens' associations - who first perceive the potentiality of those goods and are able to hypothesize possible solutions for their reconversion. Public authorities intervene at a later time, evaluating the proposals of citizens' associations, discussing them, and eventually sharing them or not. Only after this process of “sharing ideas”, public and private may reach a cooperation agreement with which public authorities grant citizens with the right to use and reconvert those goods, also identifying their duties. In short, *regeneration* policies are not one-sided, but shared.

This different, and typical at the same time, approach of the *regeneration* policies may play an important role in using taxation in a different way, mostly the use of fiscal leverage as an incentive.

Once acknowledged that pursuing an economic or social utility could be a direct and internal goal of taxation, and once recognized that tax benefits, also in the field of income taxes, are one of the tools to reach such aim, a different way can be imagined to use those benefits as a form of tax expenditures.

In this regard, we could imagine a kind of parallelism between the environmental tax policies described before and that related to granting tax benefits, since the process that leads to the recognition of tax benefits, mostly those related to income taxes, normally starts from Institutions. Our legislator grants tax benefits as an incentive to support disadvantaged people or certain economic or industrial sectors, etc. However, the process that leads to this decision is often one-sided, since it develops only inside public authorities who imagine or hypothesize the outcomes of a given tax benefit. If this decisional process is correct, if the diagnosis of the issues to solve is correct and the chosen tax benefit is the right tool, then it may reach the aim it was designed for. But if the diagnosis is wrong and the chosen tax benefit is not the right one, it will all result in a waste of public resources. In short, normally the process that leads to the recognition of a tax benefit is one-sided, since only public bodies make a diagnosis of a given social or economic problem that could be solved through fiscal leverage, and try to find the most appropriate tax benefit to solve that problem. The outcome, in terms of economic or social “utility”, can only be hypothesized, just like that of the tax benefit.

In other words, the process leading to the recognition of a tax benefit is a “top-down” one. It does not start from a shared diagnosis in which both public and private bodies recognize the economic or social “utility” of a given action and try to find a way to finance it through a tax benefit. It's just the opposite: it starts from the Institutions, who grant a tax benefit assuming the economic or social outcome it can produce.

It should be almost clear by now that the probability of a failure of such kind of one-sided decision process is not negligible. There is a concrete risk of waste of public

spending. This process, in which only public bodies make diagnosis and decisions on how to use tax benefits as a form of public spending can be called “unilateral taxation”.

Yet leaving such perspective and trying to reason with the different one behind the *regeneration* the results may be different.

As shown before, in the *regeneration* process the social or economic “utility” of a given action is already known, since it is the fruit of a public-private shared analysis. Both public and private, through a cooperation agreement (*patto di collaborazione*), recognize the social or economic “utility” of a given action aimed at reusing or reconverting common goods. In this case, the diagnosis of the issue is not unilateral, but shared. The participation of the citizens in such diagnostic process makes sure the right problem is addressed, at least for a given community (to which those citizens belong). If we decide to use public spending to finance actions aimed at solving a given focused problem, a given “utility” will surely be obtained with no waste of public money. Therefore, if a public authority decides to grant a tax benefit (which is an indirect use of public spending) to those citizens – or citizens’ association – who, with their actions, pursue the goal of a defined *regeneration* project concerning common goods, the risk to waste public resources would be extremely reduced. At the same time, if a public authority decides to grant a reduction of tax burden, in the form of tax expenditure, to those (associations, businesses, companies, etc.) interested in financing a given *regeneration* project, whose economic or social “utility” is already known, the risk to waste this indirect use of public spending would be extremely reduced.

Again, an example could be useful. In the above-mentioned case of the *regeneration* project concerning the reconversion of a disused industrial area, it is not difficult to hypothesize not only the social interest of local citizens, but also the interest of businesses who could commercially exploit the reconverted area (start-up enterprises in the high-tech sector, multi-purpose cultural centres, restaurants, bars, etc.). Those businesses, who took part to the shared *regeneration* agreement, could decide to use their money to finance part of the project, since public authorities grant them the right to exploit the reconverted area. The decision to finance the project could be further encouraged by granting a tax expenditure (meaning a reduction of income tax burden in the form of deductible charge) proportionally linked to the economic cost borne by businesses. Therefore, the tax benefit would be directly linked to the recognized economic “utility” of a *regeneration* project.

Such process, in which tax expenditure is granted only when the social or economic “utility” that a kind of tax benefit is expected to achieve is already known, can be called “circular taxation”⁸. Such term can be used since the starting point of the redistribution (and allocative) process are not taxes, but the spending itself.

Until now, at least in Italy, this process cannot be implemented, since the use of tax benefits, related to the *regeneration* process, has been limited to local authorities taxes,

⁸ A. URICCHIO, *I tributi ambientali e al fiscalità circolare*, in Riv. dir. trib., 5, 2017, 1849 (https://issuu.com/dirittotributario/docs/rivista_5_2017_sfogliabile).

thus excluding income taxes. However, if the aim to achieve a social or economic utility can nowadays be considered an objective rooted in taxation in general, then also income taxes could be used as a fiscal leverage to foster *regeneration* activities. In this perspective, “circular taxation” could be a tool to improve the efficiency of public spending.

5. References

- ALFANO R., *I tributi ambientali. Profili interni ed europei*, Torino, 2012
<https://www.libreriauniversitaria.it/tributi-ambientali-profil-interni-europei/libro/9788834829721>
- ARENA G., *Codice del Terzo Settore, volontari e beni comuni*,
<https://www.labsus.org/2017/09/codice-del-terzo-settore-volontari-e-beni-comuni/>
- BATISTONI FERRARA F., *I tributi ambientali nell'ordinamento italiano*, on *Riv. dir. trib.*, 2008, 1094
www.rivistadirittotributario.it/2017/04/12/rivista-diritto-tributario/
- CHITI E., *La rigenerazione di spazi e beni pubblici: una nuova funzione amministrativa?*, on *La rigenerazione di beni e spazi urbani. Contributo al diritto delle città*, by F. Di Lascio, F. Giglioni, Il Mulino, Bologna, 2017, 15
<https://www.mulino.it/isbn/9788815271280>
- CIPOLLINA S., *Osservazioni sulla fiscalità ambientale nella prospettiva del federalismo fiscale*, on L. Antonini, *L'imposizione ambientale nel quadro del nuovo federalismo fiscale*, Napoli 2010
<http://www.jovene.it/schedaLibro.aspx?idLibro=38325>
- DI PIETRO A., *La fiscalità ambientale in Europa e per l'Europa*, on (A. Di Pietro) *La fiscalità ambientale in Europa e per l'Europa*, Bari, 2016, 12
http://www.cacucceditore.it/catalogo/images/66115366_Di%20Pietro%202016.pdf
- DORIGO S., MASTELLONE P., *La fiscalità per l'ambiente. Attualità e prospettiva per la tassazione ambientale*, Roma, 2013
www.aracneeditrice.it/index.php/pubblicazione.html?item=9788854864610
- GALLO F.-MARCHETTI F., *La tassazione ambientale*, on *Rass. trib.*, 1999, 115
<https://shop.wki.it/periodici/rassegna-tributaria-s13661/>
- GIGLIONI F., *La rigenerazione dei beni urbani di fonte comunale in particolare confronto con la funzione di gestione del territorio*, on *La rigenerazione di beni e spazi urbani. Contributo al diritto delle città*, by F. Di Lascio, F. Giglioni, Il Mulino, Bologna, 2017, 209.
<https://www.mulino.it/isbn/9788815271280>
- GUIDARA A., *Agevolazioni fiscali*, on *Diritto on line (2013)*
[www.treccani.it/enciclopedia/agevolazioni-fiscali_\(Diritto-on-line\)/](http://www.treccani.it/enciclopedia/agevolazioni-fiscali_(Diritto-on-line)/)
- HARA D., *Market Failures and the Optimal Use of Brownfield. Redevelopment Policy Instruments. National Round Table on the Environment and the Economy*, Canadian Economics Association 37th Meeting
<https://economics.ca/2003/papers/0245.pdf>
- LA ROSA S., *Le agevolazioni tributarie*, on *Scritti scelti*, Vol. I, Torino, 2011

<https://www.libroco.it/dl/Salvatore-La-Rosa/Giappichelli-Editori/9788834827048/Scritti-scelti-Scienza-del-diritto-ed-evoluzione-delle-discipline-tributarie-L-interpretazione-delle-leggi-tributarie-e-l-elusione-fiscale/cw645932455211980.html>

- PASSALACQUA M., FAVARO T., *Rigenerare siti industriali dismessi attraverso un <<sistema>> giuridico incentivante*, on *Ri-conoscere la rigenerazione. Strumenti giuridici e tecniche urbanistiche*, by M. Passalacqua, A. Fioritto, S. Rusci, Maggioli, 2018, 61
<https://www.ibs.it/ri-conoscere-rigenerazione-strumenti-giuridici-libro-vari/e/9788891628633>
- PERRONE A.; *Fiscalità ambientale per l'Europa*, on (A. Di Pietro) *La fiscalità ambientale in Europa e per l'Europa*, Bari, 2016, 12
http://www.cacucceditore.it/catalogo/images/66115366_Di%20Pietro%202016.pdf
- SELICATO G., *Fiscalità ambientale in Europa*, on (A. Di Pietro) *La fiscalità ambientale in Europa e per l'Europa*, Bari, 2016, 12
http://www.cacucceditore.it/catalogo/images/66115366_Di%20Pietro%202016.pdf
- SELICATO P., *La tassazione ambientale: nuovi indici di ricchezza, razionalità del prelievo e principi dell'ordinamento comunitario*, on *Riv. dir. trib. int.*, 2004, 277
www.biblio.liuc.it/scripts/essper/ricerca.asp?tipo=scheda&codice=11213528
- VERRIGNI C., *La rilevanza del principio comunitario "chi inquina paga" nei tributi ambientali*, on *Rass. trib.*, 2003, 1614
<https://shop.wki.it/periodici/rassegna-tributaria-s13661/>
- URICCHIO A., *I tributi ambientali e la fiscalità circolare*, on *Riv. dir. trib.*, 5, 2017, 1849
https://issuu.com/dirittotributario/docs/rivista_5_2017_sfogliabile