



Proceedings from the  
2009 Sho Sato Conference  
on Tax Law, Social Policy,  
and the Economy

## Preface

Harry N. Scheiber  
University of California, Berkeley

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The Sho Sato Program is pleased to present this web-based symposium on “Tax Law, Social Policy, and the Economy,” consisting of papers on Japanese law in comparative perspective that were initially presented at an invitational conference held in March 2009 at the University of California, Berkeley, School of Law. The conference was co-organized by John K. McNulty, the Roger J. Traynor Professor of Law (Emeritus), and myself. It was the latest in a series of workshops and conferences sponsored by the Sho Sato Program in Japanese and U.S. Law, an endowed program of research and scholarly exchanges administratively based in the School’s Institute for Legal Research, in cooperation with the School’s Robbins Collection (Professor Laurent Mayali, Director).

As was true of previous Sho Sato Program publications – most recently the books *Emerging Concepts of Rights in Japanese Law* (Berkeley, 2007) and *Japanese Family Law in Comparative Perspective* (Berkeley, 2009), both edited by H. Scheiber and L. Mayali – the Sho Sato Program and our Law School have been greatly honored by the participation of so many Japanese scholars of the highest standing in their own country and internationally.

On a personal note, I wish especially to thank Professor McNulty, whose learning and reputation in tax law, and whose devoted attention to every phase of this project, have contributed in unique ways to its scholarly value and to the light we believe it casts upon vital contemporary policy questions.

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Tax law in relation to social policy – with its manifold challenges as to income distribution, welfare measures, the requirements of the governmental fisc, and administrative rules and procedures – is a subject that has taken on an increasing prominence in the era of accelerated globalization of economic and financial relations. The most recent financial crisis and recession conditions globally, compounded for Japan by the difficult recovery from the post-bubble economic situation, have given tax law issues even greater urgency than before.

Of special significance among the papers that follow is the comprehensive and searching analysis of this entire range of problematics contributed by the dean of tax jurisprudence in Japan, Professor Emeritus Hiroshi Kaneko, University of Tokyo. He revisits the central issues that have concerned him in his path-breaking

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<sup>1</sup> Director, Sho Sato Program in Japanese and U.S. Law and the Institute for Legal Research, and Riesenfeld Professor of Law and History, University of California, Berkeley.

studies over several decades of his scholarship, complementing his insightful views on the traditional procedural and administrative questions by the analysis of income distribution, issues of social equity, demographic trends, and other factors that shape the environment in which the formulation of tax policies must be pursued.

Much of the discussion in the papers that follow is placed in a rich historic as well as contemporary context by Professors Minoru Nakazato and J. Mark Ramseyer in their study of Professor Kaneko's transformational research and teaching. The contributions of many of these following papers concern a wide range of important policy and administrative questions that are focused squarely on Japanese law, including recent policy reforms. There is also found here analyses of several aspects of tax law (e.g., with regard to venture capital and its taxation) that represent new challenges for Japan, especially as they regard competitiveness in the face of globalization, that will likely drive policy changes in future years.

Other papers in the symposium are explicitly comparative, probing such issues as the variant effects of governmental structure (especially as to local versus national distribution of powers) in cross-national comparisons; the attributes of value-added taxation and its desirability in relation to economic structure; and social welfare and other redistributive policies as Japanese law and policy are seen in comparative perspective. The situation for taxation of income in the European Union and the impact of tax policy on Canadian family welfare and rights are the subjects of papers that focus on the law of other nations in ways that further highlight, in the one case, the issues posed by globalization, and, in the other, social welfare and emerging concepts of personal autonomy in the law.

It is the organizers' hope that the symposium will prove to be a contribution of significant importance not only to legal and policy discourse in Japan, but also to the ongoing international debate on tax law, social policy, and globalization.

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The Sho Sato Program is indebted above all to the authors represented in this symposium, for the time and effort they devoted to the preparation of original papers, for the long trans-Pacific journey undertaken by our Japanese participants, and for the kind cooperation of all authors in the editorial process. We are especially grateful to Professor Yasuhei Tanguchi and Zenichi Shishido for their invaluable advice and counsel in the organizing effort. We also want to thank Dean Christopher Edley, Jr., for the School's generous support of the event. We were also honored by the presence of Mrs. Masako F. Sato at this conference honoring her late husband Professor Sho Sato.

Among those who participated, to our great benefit, as panel chairs and commentators were: Professor Lyndsay Campbell, University of Calgary; Professor Eric M. Zolt, UCLA; Daniel H. Foote, University of Tokyo; and Professors Laurent Mayali, David Gamage, Mark Gergen, and John Lie of UC Berkeley. Professor John Owen Haley of Washington University provided us with a splendid dinner address on the subject “Why Study Japanese Law?” Thanks are also extended to Ms. Karen Chin, the administrative officer of the Institute for Legal Research, who was in charge of all coordination and arrangements; to Mr. Benjamin Jones, a third-year student in the School, now an associate in the O’Melveny & Myers law firm, who served as research assistant and translator for the symposium; and to Ms. Toni Mendicino, also of the Institute staff, for her general supportive role and her work on the publication. Mr. Helton DeCarvalho, of the School’s Faculty Support Unit, devoted much time and care to solving some formidable technical challenges in the preparation of illustrative figures and tables for web posting.