Exploring the conceptualisation of Intangibles in law and accounting in the USA: A historical perspective

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Abstract

Purpose – Over the last decades concepts and practices related to Intangibles gained momentum at international level especially within the economic, accounting and management arenas. However, dating back to the beginning of the 1900s, Intangibles was a topic that in the US dominated the law and taxation fields. Indeed, at that time few articles were published in accounting journals and reviews, whereas the majority populated law and taxation publications.

Design/methodology/approach – Drawing upon the sociology of the profession, the ways through which lawyers and accountants constructed a 'professional competition and power' (Dezalay and Sugarman, 2005) upon this arena are here explored. In particular, an in-depth analysis of the papers published on this field from the beginning of the 1900s until the 1970s in the US is carried out.

Originality/value – The work intends to contribute to the current literature providing insights into the 'geneaology' (Foucault, 1977) of the Intangibles territory and the 'turf battles' (Dezalay, 1995) it went through in order to become what has been defined as 'a field upon which questions of disciplinary legitimacy have been raised' (Zambon, 2006) and, consequently, as characterised by 'an intrusion of "external" specialists into the accounting domain' (Power, 2001).

Keywords: Intangibles, Accounting, Law, Taxation, Sociology of profession

Paper type: Literature Review

Article Classification: Research Paper

1. Introduction

Accounting is a field of research and practice upon which territorial debates and battles have been long formed. Within this plethora of *liaisons dangereuses*, probably one of the most investigated relates to accounting and law. Indeed, several scholars in accounting, law and sociology have explored the preconditions and manners through which these two fields have interfaced and from time to time juxtaposed and 'competed' (Bromwich and Hopwood, 1992; Dezalay, 1991). However, the arguments have concentrated on 'typical' and traditional accounting and legal concepts, such as 'true and fair view' and 'income nature and measurement'. With the rise of discourses on intangibles which have been defined as 'an identifiable non-monetary asset without physical substance.' (IAS 38), it can be noted that at a closer look an intersection between accounting and law can also exist. Indeed, according to IAS 38 and IFRS 3:

> "An asset is identifiable if it either: (a) is separable, ie is capable of being separated or divided from the entity and sold, transferred, licensed, rented or exchanged, either individually or together with a related contract, identifiable asset or liability, regardless of whether the entity intends to do so; or (b) *arises from contractual or other legal rights*, regardless of whether those rights are transferable or separable from the entity or from other rights and obligations." (IAS 38, emphasis added)

> "In accordance with IFRS 3 Business Combinations, if an intangible asset is acquired in a business combination, the cost of that intangible asset is its fair value at the acquisition date. *If an asset acquired in a business combination is separable or arises from contractual or other legal rights, sufficient information exists to measure reliably the fair value of the asset*." (IFRS 3, emphasis added)

Stated differently, with a lack of a legal framework the (accounting) existence of these assets is neglected. Interesting to note, despite such a clear intertwinement between accounting and law in relation to the recognition and measurement of these resources, research by accounting scholars on the investigation of the historical preconditions that could have paved the way for this 'ambiguous relationship' is still in its infancy.

Generally speaking, works within the Intangibles arena have focussed on the methods and devices that can best report the information related to them. Few exceptions have explored to what extent Intangibles or Intellectual Capital (IC) can enter and interrelate with other disciplines. In this respect, an example is provided by Roslender and Fincham (2004). In two related works, they depict a

relationship between accounting and Intellectual Capital, where accounting is seen in "functional terms" in relation to IC. In the first one (Roslender and Fincham, 2001), they recognize that accounting serves as a means through which IC is allowed to speak for itself. In a later work, they further develop these aspects in relation to the accounting profession, detecting how the interest in IC practices are highly connected to their desire to enlarge their jurisdictional power (Fincham and Roslender, 2003).

Despite these initial attempts to explore the linkages that can be created amid intangibles (or IC) and other fields, the mainstream thought still conceptualises them as belonging to a "subordinate discipline" or, as Power has stated, as an "intrusion" in other, more established ones:

> 'a use value for accounting that had been heroically invented for it in the 1930s (and was probably always suspect) was now in crisis. And with this crisis, so too was the jurisdiction of accountants newly threatened by brand valuers, human resource specialists, and anyone else who put the need to open the black box of Goodwill above any scruples about measurability and auditability' (Power, 2001, p. 691).

The rationale of the paper follows from these observations. It aims at investigating the conceptual developments that the discourses of Intangibles have gone through, in order to understand the preconditions and manners according to which they have historically entered the connection between accounting and law.

To this end, a review of the articles that have been published in accounting, law and taxation journals and reviews in relation to Intangibles from the beginning of the 1900s until the 1970s in the US is here proposed. The choice of this country is related to the fact that in conducting the analysis it has been noted that most of the works have been published in journals and reviews based in this nation.

The work intends to contribute to the existing and sometime 'sealed' Intangibles field of research and practice by suggesting an innovative point of view through which the related conceptualisation, recognition and measurement challenges could also be conceived, resulting from of a complicated relationship between diverse arenas.

The argument is organised as follows. Firstly, a review of the (difficult) relationship that has always occurred between accounting and law is carried out. Then, the methodological path that has been undertaken in order to organise the literature review is illustrated. An in-depth analysis of the selected papers is conducted within each academic field (law, accounting and taxation) and then, a comparative view in relation to developments across the three disciplines is offered. Finally, it is suggested that intangibles research could benefit from the adoption of an interdisciplinary perspective

able to pose questions and to investigate "grounds" that are sometimes outside the "comfort-zone" of the accounting scholar. This way, the importance to investigate these types of resources in the broader "context in which they operate" (Hopwood, 1983) will be proposed.

2. The relationship between accounting and law: an investigation into its development

As previously stated, the uneasy relationship between accounting and law is not new. Indeed, it traces back to the Middle Ages when law started to regulate accounts.

Accordingly, as stated by many scholars, accounting has historically been seen as the 'object' of law in that 'legislation often merely endorses established accounting practices' (McBarnet and Whelan, 1992, p. 99). Consequently, also the development of the accounting profession has followed this logic in many countries, especially in those belonging to a civil law tradition. As clearly and recently illustrated by Coronella et al. (2015) and Walker (1995; 2004), in order to be established as a recognised profession, accountants had often to pursue closure strategies towards the privileges possessed by lawyers. Indeed, the latter have always been perceived as a dominant profession at the heart of the socio-economic networks in virtue of their close connection with state institutions.

In this respect, over the last decades accounting can be seen as desiring possibilities of 'reprisal' in relation to such a subordinate position that it had to adopt (Napier and Noke, 1992). This attitude has become more compelling with the increased role of state regulation in financial services and in general of the European Community. In addition, after the commodification of auditing and the domination of consulting services in the late 1990s, the conceptualisation of the notion "multidisciplinary practices" (MDP) has led the Big Five to enter and colonise the legal profession, where allowed (Suddaby and Greewood, 2001). However, for the sake of the argument here advanced, it has also to be pointed out that such infiltrations of accounting within the law arena could also provoke the disintegration of social systems, especially when accounting thought and logic becomes "politicized" (Miller and Power, 1992), thus contributing to the creation of "juridified", regulatory laws (Laughlin and Broadbent, 1993).

Despite these challenges, prospects for a collaboration between law and accounting are not neglected. In accountants' eyes, law can still represent in many cases a possible solution to the ineffectiveness of the profession to ensure compliance (McBarnet and Whelan, 1992). This 'might of law' (Patient, 1992) is conferred by the possibility to apply criminal sanctions and civil liabilities (Hadden and Boyd, 1992). In a similar vein, through lawyers' lenses, difficulties can also affect the processes of lawmakers and law enforcers in terms of compromises, negotiations and the pursuit of vested interests that can occur. In addition, the relevance that regulation can assume both by resisting compliance and to enter into an ambiguous relationship with law enforcers, should not be ignored. In particular, it has

been shown that through the adoption of myth making, ritual ceremonies and dramaturgy of exchange (Ritti and Silver, 1986) this intertwinement can be easily achieved. In this respect, the Securities and Exchange Commission has been found to establish relationships with regulated and other external constituencies, at first through the development of an "appropriate and ritualized language of regulation and pattern of interacting with regulatees" (ibid., p. 334), but more interestingly by means of mechanisms of social control inserted in professional and reporting bodies. In other words, SEC gained legitimacy by decentralizing its power and delegating accounting bodies with part of its responsibilities (Bealing et al., 1996). Employing a particular facet of institutional theory, namely "regulatory capture", which conceives regulations as being profoundly influenced by those impinged, analogous observations are attained. In fact, in analysing the regulation of insider trading, SEC adopts forms of discourse through which a strong connection with regulates is established, as it becomes "endogenized" by them (Bozanic et al., 2012).

Accordingly, it could be stated that notwithstanding the epistemological tensions which connote the relationship between accounting and law, they could offer possibilities for cross-fertilization (Napier and Noke, 1991; 1992).

2.1.Taxation

> "Thus, there are disputes between lawyers and accountants about who has competence in specific areas of taxation planning. Which occupational group is dominant varies from country to country, and between different forms of tax advise (for example, compare transfer pricing advise and advise on the legal structure of subsidiaries and joint ventures)." (Cooper and Robson, 2006, p. 420)

As clearly stated in the argument advanced by Cooper and Robson (2006), one of the main arenas in which the rivalry and/or the possibilities of cooperation between accounting and law takes place is taxation. Indeed, taxation has historically been identified as a "grey area" in which both lawyers and accountants could enter in contact. In other words, taxation can embody a multidisciplinary field in nature. As a consequence, it may happen that the questions posed and analysed in the different arenas on which taxation relies (in the present case accounting and law) are often the same (Hanlon and Heitzman, 2010). This situation has traditionally led both practitioners and academics to face difficult situations. From a professional perspective, the dominance of lawyers vis-à-vis that of accountants has yielded to neglecting "dual practices" as it could have created confusion amongst clients. As for academic research, it has been acknowledged that while tax has always encountered the interest by

economics, finance and legal scholars, a similar attitude has been adopted by the accounting domain only recently (around the mid of the 1980s). As a confirmation of this, the framework that has been used in accounting to conduct tax research has (only) been developed at the beginning of 1990s (Scholes and Wolfson, 1992). However, with few exceptions taxation research, as opposed to its practice, is found still nowadays to develop weakly within the accounting domain (Lamb and Lymer, 1999).

3. Methodology

In order to investigate the historical preconditions of the relationship between accounting and law in relation to Intangibles, a review of the research developed into this field from the beginning of the 1900s until the 1970s in the US has been carried out. This time span is justified firstly by the historical-evolutionary perspective that connotes the present work and secondly by the trends that research on this topic has revealed during those years. Indeed, as it will be discussed in more detail in the following paragraphs, it has been noted that it is possible to identify "research waves" respectively by law, tax and accounting scholars. Although it is acknowledged that several literature reviews and meta-reviews have already been published within the Intangibles area (Kauffman and Schneider, 2004; Swart, 2006; Serenko and Bontis, 2004; Petty and Guthrie, 2000; Zéghal and Maaloul, 2011) in our view they are quite myopic. Indeed, they are limited to the analysis of certain aspects of Intangibles, such as IC, to papers published in *ad-hoc* journals, such as the Journal of Intellectual Capital, the Journal of Knowledge Management and Knowledge and Process Management, and they often take into consideration only recently published research. Accordingly, in our opinion, they are neither able to offer an interdisciplinary perspective of the research developed in this arena nor an investigation into the underlying reasons behind the current use of certain concepts.

Moving from this standpoint, the sample used here consists of published articles from the database ISI WEB of Science by Thomson that have been published between 1900 and 1970 in academic and professional journals and reviews. All papers in which "Intangible" being a word is used in the title have been initially retained. The choice to include only "Intangible" and not "Intellectual Capital" (IC) or "Goodwill" is twofold. First, it relies on the adoption of a viewpoint which conceives IC and Goodwill as being closely related to, almost synonymous of, the concept of Intangibles. As pointed out by Petty and Guthrie (2000), until the 1980s intangibles were referred to as "goodwill" and IC was conceived as being part of it. Secondly, it has to be noted that IC is a notion that has only recently been proposed (Stewart, 1997). Therefore, the underpinning of this decision was not to create any limitation. This stage has generated a basis of 163 papers. A more refined selection was required in

view of the trends that the articles revealed to have in relation to certain research arenas and "nationality". In particular, it has been noted that over those years most of the papers have been published in law, accounting and taxation journals and reviews based in the US (Table 1).
Accordingly, the works belonging to different journals have not been taken into consideration in this paper. For the sake of the argument, it has however to be said that although some trends were also exposed in relation to economics journals, the choice in this instance has been to not take them into account in virtue of the acknowledgment that in the US the approach of law highly rely on economics.

[Insert Table 1 about here]

This way, these two stages generated a basis of 111 articles. Each article has been reviewed following an in-depth analysis. The next sections will discuss the observations achieved, clustered as follows. Firstly, research trends have been identified for each arena (law, accounting and taxation). Then, a comparative overview especially in relation to the definition of intangibles and the scope of enquiry is presented. The decision to centre the cross-sectional investigation on these two features primarily relies on the rational of the paper, which is to explore the conceptualization of Intangibles. Secondly, it refers to the acknowledgment that the use of a certain language, of vocabularies and means adopted to address a topic mirrors the (more or less intentional) belonging of the issue at stake to a specific sphere of research and practice. In other words, it can denote the ability of an arena to successfully fertilize other ones. As pointed out by Miller and Power (1992, p. 232):

> "Particular languages and vocabularies set out the objects and objectives of diverse schemes and devices for administering the domain in question. A grammar of analyses and prescriptions links together a conception of the domain to be regulated with a specification of the appropriate and legitimate means to achieve this."

And this is particularly the case (but not the only one) when accounting and law interact, especially in relation to policy issues.
The choice of not focusing on diverse, more scientific and objective refinement methodologies, such as citations analysis lies on the rationale of the paper, that is to open up the black box of intangibles research without trying to necessarily disentangle the influential works and/or their impact. Indeed, the intention here is not to understand which are the "classics" or "nearly classics", respectively the papers that have been cited four or more times per year or more than three but less than four (Prince, 1965; Brown, 1996), but rather to recognize the tendency which has characterized Intangibles

research since the 1900s. In addition, it has to be pointed out that also citation analysis does not lack criticism. Many of its disadvantages have been discussed in the literature and refer firstly to the presence of negative citations (Croom, 1970), secondly to the "halo effect" in relation to the reference to popular authors, thirdly to "hot topic" phenomenon, fourthly to the use of self-citations and/or the citations of possible editors or articles published in the same journal or of review articles (Brown and Gardner, 1985; Biehl et al., 2006).

4. Intangibles in US legal studies

One of the first trends that emerged in analyzing the papers that have been developed on intangibles within the law arena in the time span considered is that these types of resources were clearly identified and identifiable. Put differently, as opposed to the current situation where a convergence towards a generally accepted definition of intangibles (and IC) is still distant, it seems that the definition referred to as "intangibles" was not problematic for scholars and practitioners. Indeed, in view of many, if not most of the legal scholars, they related to "bonds, mortgages" and generally to all those "properties" that belonged to the individual and (very scarcely) to the company as opposed to tangibles ones, such as "furniture and clothing". Concerning this definition there are three aspects that we found to be of particular interest from an accounting point of view. At first, the reference was to "properties", as indicating a "sense of belonging" of the resources to a person or to an object (an organization). Interestingly to note, this connotation is similar to that provided for Intellectual Capital by many accounting scholars nowadays, which is a resource that is *available* to an organization and as such is able to yield its benefits to that entity (Zambon, 2000).

Secondly, the properties mainly belonged to individuals. This connotation could be explained by the fact that at least until the first years of 1900s the "industrial tissue" of the US was not copiously developed and consequently (personal) property tax represented almost an half of national, states and local governments revenues (Wallis, 2001). Third, and in more general terms, "intangible properties" represented what has come to be defined in accounting as "financial assets and liabilities". Despite such clear reminders throughout accounting, "intangible property" (only) started from the 1920s, and it was then that the adoption of a more "accounting" language and connotation began, also by being referred to companies, such as "intangible property on which (no) depreciation and depletion can be taken in computing the income subject to taxation" (Thulin, 1919, p. 294) and "the intangible value represented by the use of the tangible property as a unit engaged in productive enterprise" (J.A.G., 1928, p. 303). The reasons for this shift could potentially be threefold. On the one hand, the Revenue Act passed in 1913 signed the beginning of the modern taxation system in the US. On the other hand, from 1914 to 1920 several reforms of existing taxes were undertaken, in particular to reach personal

intangible property. Indeed, until then, taxation of personal properties depended upon a voluntary disclosure by the individual and/or the corporation, allowing them to easily transfer the *situs* of those properties to another state.

In addition, as it will be explained in the following paragraph, it was in those years that accounting was becoming a more established discipline and practice, also in relation to taxation. As pointed out by Chatfield (1977) and Zeff (2003), accountants were growing their experiences and as such, they were starting to challenge the law if errors were detected.

Notwithstanding the advances in terms of definition, the scope of enquiry in which intangibles were positioned, largely remained unchanged over the years. Indeed, it has been possible to cluster it into three main, but interrelated, sections, that are a) when intangibles have to be taxed (which and where is the *situs* of intangibles), especially as related to the avoidance of double taxation; b) the taxation of intangibles within the scope of inheritance tax, and c) who has the power to tax intangibles.

While the first one could be clearly understood, in light of the definition that has been provided over the years, that is resources that could be easily moved or "choses in action", the second and the third sections will require a brief description. As for inheritance tax, it must be recognized that it originated as part of the so-called death tax that has been historically governed by state laws, rather than federal ones. Indeed, death taxes have been introduced firstly by states and only in 1916 did the Federal Government pass the estate tax. This situation led to tensions about the power to impose the tax. Indeed, if on the one hand it is the state which was creating the tax base, there have been arguments, also referred to intangibles property, which favored its imposition by the Federal Government. According to them, to locate the *situs* of intangibles property for death taxation at the residence of the descendent was quite controversial, as a person could move right before dying, especially if a competition amongst the states in terms of tax rates could lead them to adopt a reduction policy. In addition, it was to be acknowledged that business was becoming always more national and international. As a consequence, the power to tax intangibles became one of the primary sources of tension in a tax system that is not uniform, but decentralized into three main branches - local units, states and the Federal Government, as the US are.

Drawing on the observations delineated above, it can be pointed out that if on the one hand intangibles discourses have been addressed quite profusely within the law arena (most of the papers that resulted from the selection process were published in law journals and reviews), progresses have been accomplished mainly in terms of definition, rather than within the scope of investigation. In other words, even if an influence from accounting can be noted on a more conceptual basis, the "substantial" terms of analysis largely remained unchanged.

5. Intangibles in US accounting studies

At the beginning of the 1900s research on intangibles in accounting journals developed dimly. Out of the 16 articles analysed, only 6 appeared on the accounting research stage in the time span from 1900 and 1940, and most of them were dealing with quite diverse topics, ranging from the valuation for tax purposes to the capitalization of drilling costs. A definite, structured and comprehensive thought in relation to these resources was not present as yet.

From the beginning of the 1940s, an opposite situation can be noted. Indeed, not only both accounting academic and professional studies on intangibles were more present in terms of numbers of publications, but also the areas of inquiry in which intangibles were 'located' mirrored the discourses that were taking place at the national level amongst the accounting constituencies. In addition, the first signals of cross-fertilization were launched. In this respect, it is of particular interest that for example (already in 1926) a paper on the "Valuation of intangible property before board of tax appeals" has been published both in the Journal of Accountancy and in the Bulletin of the National Tax Association.

As it has been in the case of legal research and practice, these trends can possibly be explained by the economic and institutional factors that were occurring in the US over those decades. As described by Markarian (2013), signs towards a recognition of the relevance of the role of accounting were present, although softly and mainly on a private basis, since the late of the 1880s when for example the forerunner of the American Institute of Certified Public Accountants (AICPA) was created. A few years later, accounting was also becoming more of an independent academic discipline as the creation of the Journal of Accountancy in 1905 and the foundation of the American Association of University Instructors in Accounting in 1916 (today American Accounting Association, AAA) can demonstrate. Despite these initial, significant episodes, it was only in 1929, when the stock market crash occurred, that a strong recognition of accounting was launched. Indeed, as a major consequence of this event, the US Congress established the Stock Exchange Commission (SEC) with the aim to regulate the issuance and trading of securities on the exchanges and, more in general, to have streamlined accounting procedures. However, this task was not an easy one. In this respect, in the mid of the 1930s tensions between AAA and AIA for the issuance of accounting principles arose.

As pointed out by Storey (1964), although similarities existed amongst the two organisations both in terms of the objective to be achieved and in conceiving of accounting theory and practice as highly interrelated (the former being derived from the latter), the path adopted to reach these aims differed. On the one hand, the Association believed that a comprehensive framework that could be improved over the years could provide support in establishing generally-accepted procedures. Accordingly, in 1936 "A Tentative Statement of Accounting Principles" was released and comments were

pronounced until 1957. On the other one, the Institute decided to adopt an *ad hoc* approach, recommending treatments formalized in so-called Accounting Research Bulletins as new questions arose.

Despite these dissimilarities, the two organisations did not have diverse views on the recommendations per se. However, the creation of a statement of accounting principles on which accountants and users could rely was still far away. Even if the more "practical" line of action adopted by the Institute was preferred to the Association's one, the lack of generalizability and of internal consistency were hampering the full adoption of the Bulletins. In addition, if on the one hand the Institute was cautious, fearing to publish opinions and pronouncements that could have been in contrast with those of other authoritative bodies, the Association, more distant from the governmental power was criticizing this need for "allies".

As previously illustrated, these frictions were the main 'cause' of the shift of accounting research on intangibles from being very scarce at the beginning of 1900s to representing an emergent and almost dominant arena over the 1960s and the 1970s. Indeed, they were also part of those issues about which streamlined procedures were looked for (Zeff, 1972).

6. Intangibles in US taxation studies

Similarly to its epistemological nature, also tax research referred to intangibles can historically be located in the middle of law and accounting, even if influences from the former and the latter have occurred in different periods and almost never concurrently. In this respect, it has been noted that since the beginning of 1900s taxation research has been more closely related to law research. Definitions of intangibles were mainly referred to as individual "properties" and the scope within which they were investigated largely relied on the identification of their *situs* (both in general terms and in relation to inheritance tax) and on the measurement of their tax base.

In later years, and especially from the 1940s, intangibles were referred always more as similar to accounting definitions of "corporate property" and "assets" and to accounting "problems", such as to their deduction and amortization. Interesting to note, despite research acknowledged quite a clear shift from a law to an accounting perspective, the contextual factors that connoted that period were characterized by a cross-fertilization amongst the two arenas.

A significant episode in this respect could be embodied by the ways through which income tax passed. Indeed, although income tax existed since the beginning of the ninetieth century, it was only in 1909, when the corporate tax bill passed, that accounting and taxation started to formally enter in contact. Indeed, as previously explained, in those years accounting was taking its first steps. Accordingly, practitioners were able to judge whether the methods allowed by the law were applicable or not. And

that was not the case in the Act passed (Chatfield, 1977). Accordingly, accounting firms started to openly criticize it and the Treasury was forced to revise its position.

Concurrently with these institutional developments, it is worthwhile to note that it has been only in 1951 that in the US an official acknowledgment by the two National bodies had been achieved in relation to the professional status of accountants and their right to raise questions in tax practice (Gibson, 1962). In particular, during that year, the American Institute of Certified Public Accountants and the American Bar Association adopted the so-called "Statement of Principles Relating to Practice in the Field of Federal Income Taxation", promulgated by the National Conference of Lawyers and Certified Public Accountants, which advocated the two professions to collaborate amongst them in the field of taxation. The National Conference was formed in 1946 including members from both constituencies.

From 1947 to 1970 tensions and harmonies characterised the relationships between lawyers and CPAs. This was mainly due to the imposition by the American Bar Association not to engage in dual practices, as it could have been conceived of as being misleading and creating confusion for the public. (American Bar Association Journal, August 1970, Vol. 56 pp. 776-780). This difficult situation finally solved in 1971 when ABA releases Opinion 328 which allows members to practice both professions from same office if in total compliance with all of the Code of Professional Conduct. Furthermore, Opinion 328 expressly concedes: "Accordingly, this Committee cannot condemn any activity today on the basis of 'indirect solicitation' or 'feeding' of a law practice. Any proscription must be based upon the provisions of the code." Later, in 1976, the National Conference revised its 1970 study and deleted its derogatory references to dual practice but it states that an attorney providing legal services may not also issue an audit opinion for the same client, if he or she is not considered to be "independent." Interesting to note, while the Institute since the beginning of this formal relationship was in favour of dual practice, it was the ABA that was opposing itself to this practice. This attitude could be explained in light of the dominant position that lawyers historically covered, also in relation to taxation.

7. Intangibles definition and scope of enquiry: a comparative overview between law, accounting and taxation

In comparing the observations achieved within each of the three disciplinary fields, it is possible to note that two research waves in relation to intangibles research can be disentangled, the first one spanning from the 1900s to the 1940s and the second from the 1940s to the 1970s. Accordingly, further cross-disciplinary insights will be proposed in the following paragraphs, especially in relation to the two main features that have been noted as having been subject to major developments, which are the definition proposed for intangibles and the area of enquiry in which they have been "placed".

1900 - 1940

In analyzing the developments of intangibles research amongst law, accounting and taxation, it can be said that until the 1940s the discourses referred to this topic remained quite traditionally bounded to the perspectives that historically characterised each of the three fields. As such, law represented the predominant arena able to elaborate structured and comprehensive thoughts, both in terms of proposed definitions and scope of inquiry. Taxation, in turn, was highly influenced by law in proposing similar conceptualisations and dealing with similar problematics. Finally, accounting, which was taking its first steps, was not well established enough to be either influenced by, or have the power to inspire other disciplines and practices.

In providing a comprehensive picture of these interrelationships (Figure 1), it can be advanced that while law and taxation research on intangibles relied on a junction, with the former claiming expertises on the latter, accounting was (still) far away from any fertilization.

[Insert Figure 1 about here]

1940-1970

Starting from the 1940s a diverse and more dynamic situation occurred. Indeed, not only the presence of articles in taxation and accounting journals and reviews become more intense in terms of numbers of publications, but also a 'reversed' influence between the three arenas could be noted. Accounting became highly prominent in relation to law and taxation, even if in different ways. If on the one hand it has been able to intensely interact with taxation research and practice both in conceptual and in substantial terms, on the other hand, law was mainly affected in terms of notions and language, maintaining mostly untouched its scopes of inquiry.

Accordingly, the interactions could be depicted as proposed in Figure 2 with accounting covering a dominant position, especially with reference to taxation and only marginally to law.

[Insert Figure 2 about here]

8. Conclusion

The aim of the paper has been to explore the preconditions and the manners through which the conceptualisation of Intangibles have historically entered the complex relationship between accounting and law. As noted at the beginning of the work, despite nowadays there is a quite clear recognition of this interaction also in international accounting standards (e.g., IAS 38 and IFRS 3),

no much has been studied in this perspective to date. Research papers and literature reviews, even if proposed by academics and professionals working in an interdisciplinary field such as that of Intangibles and Intellectual Capital, have tended to address the topics and issues mainly from their own disciplinary perspective and methodological "credo", offering sometimes myopic views.
This attitude could be consistent in our view with what has already been noted elsewhere in relation to the fact that researchers work in a network, and that "in order to be able to 'change the order' a scholar needs allies inside and outside the core set […] and a successful finding must be one which seems to preserve (major) social institutions, or otherwise it risks contempt or to be labelled as 'complete nonsense'"(Manninen, 1996, p. 664). As such,

> "the persistence of such research ''shoulds'' might be better explained by reference to the concept of a reputational cascade. In these cascades, individuals go along with the crowd despite their contrary private opinions or beliefs (i.e., they stifle their dissent, their difference of opinion). They are willing to remain silent about their own beliefs in order to maintain the good opinion of others" (Young, 2009, p. 8).

In other words, academics can have a lack of freedom (Willmott et al., 1993) which can be both imposed (Willmott, 1995) and self-imposed (Barnett, 1988; Lee and Williams, 1999).
Moving from this standpoint, the intention here has been to "challenge" this logic, advancing that when a diverse perspective is embraced, new opportunities for finding answers to (relatively) old questions emerge. For example, "does goodwill accounting matter?" or "why internally generated intangibles are not recognised?". In trying to pursue such an ambitious objective, the developments of the discourses that have occurred at the beginning of the 20th century until the 1970s in the US, have been illustrated. In particular, an in-depth analysis of the papers that have been published in US law, accounting and taxation journals and reviews has been conducted first within each disciplinary field, and then in a comparative perspective with special reference to the definition of intangibles and the area of enquiry in which this topic has been investigated.
Notwithstanding the current conceptualisation of intangibles as a field of research and practice at the margins (Miller, 1998) of accounting, the results achieved in the present research suggest that, at least historically, the topic of intangibles was highly intertwined not only within the different streams of accounting studies and practice, but also with the developments in legal and taxation fields that were surrounding the US economic, social and political institutional scenario.
Accordingly, it has also been observed that taxation vis-à-vis intangibles is an arena at the junction between other, more established ones – in this case accounting and law –, and as such it is from time

to time colonized by the latter. These colonization episodes rely, in our view, not only on (opportunistic) claims of expertise, which led the disciplines of accounting and law to self-proclaim as *the* dominant ones with regard to intangibles subject area, but also on the broader social, economic and political circumstances which accompany the developments of these disciplines.

In this respect, it is here advocated that such a connotation, which conceives of intangibles as intensely interacting with other fields of research and practice, has not to be perceived as being a negative one. On the contrary, it can be seen as constantly offering animated spaces for innovative research, especially when more interdisciplinary points of view, outside of the individual disciplinary "comfort zones", are adopted in their capacity of revealing and appreciating Intangibles in the "context in which they operate" (Hopwood, 1983).

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Table 1 – Intangibles Research in Law, Accounting and Taxation Journals in the US 1900-1970

Topics	Journals	Total Number of Articles
Law	Michigan Law Review	7
	New York University Law Quarterly Review	6
	Iowa Law Review	6
	California Law Review	6
	Yale Law Journal	5
	Virginia Law Review	5
	Illinois Law Review	4
	Columbia Law Review	4
	Minnesota Law Review	3
	Harvard Law Review	3
	University of Pennsylvania Law Review and American Law Register	2
	UCLA Law Review	2
	University of Pennsylvania Law Review	1
	University of Chicago Law Review	1
	Texas Law Review	1
	Standford Law Review	1
	Notre Dame Lawyer	1
	New York University Law Review	1
	Mercer Law Review	1
	Duke Law Journal	1
	Cornell Law Quarterly	1
	American Law Register	1
	American Bar Association Journal	1
Accounting	Journal of Accountancy	12
	Accounting Review	4
Taxation	Bulletin of the National Tax Association	11
	Taxes The Tax Magazine	5
	Taxes	4
	Journal of Taxation	4
	Tax Magazine	3
	National Tax Journal	3
	National Income Tax Magazine	1

Figure 1 – Junctions between Law, Accounting and Taxation Research on Intangibles between the 1900s and the 1940s

Figure 2 – Junctions between Law, Accounting and Taxation Research on Intangibles between the 1940s and the 1970s