## Action brought by the tax authorities to determine the existence or non-existence of a legal relationship or a right

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## **SUMMARY**

The subject of the dissertation is the action brought by tax authorities to determine the existence or non-existence of a legal relationship or a right. This action has existed in the Polish legal system since the 1st of September 2005 and it is of interdisciplinary nature, as it remains subject to regulation in civil procedural law and tax law. The essence of the discussed issue lies in the fact that a judgment of the common court becomes an element of the actual state of tax proceedings, carried out by a tax authority. This verdict is made as a result of the tax authority filing the discussed claim, if in the tax case there are doubts about the existence or non-existence of a legal relationship or a right resulting in tax consequences. Due to the specificity of regulations, the discussed action is different from other determining actions and requires the determination of the appropriate conditions for its effectiveness and legitimacy. This is due to the fact that the standing to bring proceedings was granted only to the tax authorities, and the legal interest is not a prerequisite of this action, which is in turn the necessity to obtain a civil court judgment resolving the tax case. The thesis also addresses the issue of linking the claim in question with circumvention and abuse of tax law and the ability of the tax authorities to interpret declarations of will and declare the legal action invalid without the participation of a common court.

In practice, however, the discussed action is not frequently used, as evidenced by the quantitative research carried out in the thesis. In order to examine the measurement of the relationship between the direction of judicial decisions and the assumed reluctance of the authorities to bring actions for determination, the thesis include analysis of case law of common and administrative courts. The analysis of this issue was also supplemented with theoretical considerations and historical remarks.

The thesis has been divided into five chapters, which were preceded by an introduction and ended with final conclusions.

The first chapter defines the objectives and functions as well as the object of the action of the authorities in the context of the general objectives, functions and subject of the civil process.

The second chapter discusses the reasons for the actions brought by the authorities, dividing them into the conditions of effectiveness (admissibility) and legitimacy of an action. In addition, an analysis of these premises was carried out as compared to the defendant law, based on art. 189 of the Code of Civil Procedure (KPC).

The third chapter of the thesis is devoted to the issues of mutual relations between the authorities' action for determination and the clause of circumvention of tax law.

On the other hand, the fourth chapter discusses the link between the action brought by the authorities and the abuse of VAT law and the ability of the tax authorities to independently interpret declarations of will and determine the invalidity of legal acts without the participation of a common court.

The fifth chapter analyzes the claim for action, the defendant's special procedural situation and a number of procedural issues. Ot also presents the effects of binding tax authorities and courts by the ruling of a common court, as a result of the action brought by the authorities.

Attached to the thesis are information from the Department of Strategy and European Funds of the Statistical Department of Management Information of the Ministry of Justice on the number of actions brought based on the provision of art. 189<sup>1</sup> KPC in the years 2005-2016 in district and regional courts as first instance courts and in the area of decisions in regional courts (as courts of second instance) and courts of appeal.

The main thesis of the hearing is the assumption that if the tax authorities rarely use lawsuits, this is the result of the administrative courts accepting such omissions of the authorities due tax matters. This thesis has been confirmed by a qualitative study, consisting in the analysis of decisions of common and administrative courts.

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