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SUMMARY OF DOCTORAL DISSERTATION

Taxpayer's Rights in Tax Liability

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Doctoral dissertation "Taxpayer's Rights in Tax Liability" addresses issues of the protection of taxpayer's rights in the area of general tax law, in particular, tax liability.

The primary research objective of the dissertation is to examine the components and structure of the taxpayer's entitlement and the adoption of their classification, which will allow a comprehensive analysis of the entitlement in question in terms of the adopted classification and legal nature at each stage of tax liability¹. This required examination of this institution on many levels because at each stage, tax liability can take a different normative shape, as well as fulfill a different role through the varied scope of subjective protection of the taxpayer. In connection with the purpose of the work, the normative shape of the studied issue was analyzed, this allowed to distinguish the classification and the consequence of the implementation of the right for the taxpayer.

Realization of the aim of the work would not be possible without the analysis of the already established views of doctrine concerning the types of legal relations and their elements. In the theory of law, it is commonly accepted that the construction of a legal relationship consists, among others, of entitlement, the genesis of which derives from civil law. This

¹ At the stage of creation, liability, security and expiration of tax liability.

institution determines the sphere in which a specific entity may apply the appropriate model of behavior. The existence of the taxpayer's entitlement is the consequence of the adoption of the obligatory relation in the tax law, the legislator did not use the term "entitlement" in the definition of the tax obligation, but frequently uses it in the tax law regulations, it is necessary to organize the terminology in this area and to indicate based on which criteria the examined issue is distinguished. Moreover, the subject of the analysis is important from the point of view of consequences for professional practice as well as for the tax law doctrine.

The subject of the study is tax law, with particular emphasis on the Tax Ordinance Act, as well as, detailed tax law.

Since the work is to be legal only, it was justified to adopt research methods characteristic and appropriate for legal sciences. Due to the analysis of normative material, the doctrinal or case law achievements of the Constitutional Tribunal, the Supreme Administrative Court, provincial administrative courts and the European Court of Justice, a dogmatic-legal method was adopted in this work, as well as a complementary historical-legal method. The method used includes theoretical findings based on the scope of the theory of law, the theory of constitutional law, the theory of financial law and finally the theory of tax law.

The work, apart from the introduction and conclusions, consists of four chapters. Each of them begins with introductory remarks intended to introduce the researched issue in a given chapter and a short summary.

The first chapter: "Eligibility as a component of the content of the legal relationship of the obligation" is the starting point in the analysis of considerations concerning the subject of this dissertation. Therefore, the research area of this chapter focuses on the issue of legal relations in public law. The importance of the legal relationship is manifested in particular by its content, which determines the scope of rights and obligations. It should be mentioned that the concept of a legal relationship is not normative, is not defined in any legal act, and results from the subject of research on the doctrine of public law and some branches of law. The aim of the first chapter is to present the concept of a legal relationship and its elements. It is also important to indicate the types of legal relationship, which will further distinguish the categories of rights. An expression of establishing a legal relationship is the operation of a legal norm, which is a manifestation of a normative statement, hence, in the first place, it is necessary to refer to the relationship of the legal norm and the legal relationship.

The second chapter, "The essence of entitlement in public law," was concerned with determining the essence of entitlement arising from the public law system as a certain whole based on common assumptions and values. The purpose of the chapter is to examine the essence of rights, as well as to define the foundations of their formulation in public law. The examination of the subject matter is determined by the normative basis of rights and public subjective rights, which are then the basis for distinguishing the taxpayer's rights in tax law. The findings regarding the components of the legal relationship clearly indicate the key role of the right as an element of the content of the legal relationship. It is a universal tool that gives the subject of a legal relationship a certain choice of behavior.

The analysis of the doctrine prompts to reflect on the diverse nature of the right, as it takes a different form depending on the branch of law and the legal situation of the subject. This term also takes various conceptual forms, such as, *inter alia*, right, freedom or subjective right. Based on the literature on the subject and case law, these issues are examined exhaustively, while in everyday language these terms are used interchangeably. Addressing the problem of defining concepts should become an important subject in lawmaking, as important as the use of legislative techniques that ensure flexibility of legal provisions. This forms the basis for examining the issue of the definition of the taxpayer's rights in the provisions of tax law. The conclusions show a diverse nature, which prompts a confrontation of this concept in the theory of law and tax law.

It also indicated the constitutional basis for formulating powers and the impact of the principles of legislative technique on their formulation in public law. When formulating public subjective law, it is important to characterize the legal system in terms of competence norms. The chapter distinguishes the division of the formulated powers in public law after the literature. The adopted division allowed to distinguish them in subsequent chapters based on tax law and their in-depth analysis. There are, among others, substantive and procedural rights, while the main categories are simple and complex rights.

The research objective in chapter three "Assumptions regarding the taxpayer's rights in tax law" was to examine the main subject of the dissertation as a component of the content of the tax liability. Tax and taxpayer rights are commonly adopted in the doctrine. Demonstrating the differences between these concepts and their subject scope, determining and showing the essence of the taxpayer's right allows for terminological ordering and, consequently, drawing conclusions on how the normative structure of this institution is shaped at each stage of the tax liability, allowed for an in-depth examination of the issue in question. The starting point in the

analysis was to establish the scope of the concept of entitlement. This concept is commonly accepted in the doctrine, the legislator repeatedly uses the term "entitlement" in the provisions of tax law in relation to the taxpayer, without attempting to define this term in legal acts. Therefore, it is justified to examine the issue in question in the normative acts relating to the taxpayer. The literature commonly accepts the concepts of legal-financial rights, legal-tax rights, and tax rights, hence one of the objectives of this chapter is to determine how the legislator expresses the taxpayer's rights in the provisions of tax law as there is a basis for distinguishing this concept in tax law. Determining the scope of the concept of taxpayer's rights may constitute the basis for the legislator to adopt a definition of the issue in question. The issue of the concept of taxpayer's rights must be preceded by an examination of the components included in its structure. Subsequently, it will allow an attempt to establish this concept and its objective scope.

The analysis of the concept in question in the third chapter indicates a wide scope of this term, as they take the form, *inter alia*, of application, declaration of will, complaint, appeal, reminder, or complaint. The interpenetration of the taxpayer's rights and tax rights creates difficulties in their detailed or detailed division. Moreover, the case-law of courts in relation to tax law uses these terms interchangeably, without taking into account the division into different conceptual categories.

The purpose of this chapter was also to present the components of the taxpayer's right that determined its shape, and in particular to indicate certain components. The components include; subject - taxpayer, object - behavior, and the content of the behavior, i.e. legal norms that will determine this component, i.e. what is the subject of the behavior and what the taxpayer is asking for, i.e. its content. Chapter three also analyzes the forms of exercising the taxpayer's rights. Activation of the bundle of rights is expressed in various forms during its implementation and depends on the fulfillment of technical issues.

Chapter four "Normative form of the taxpayer's rights in the tax liability". Chapter four analyzes the division of powers taking into account only the tax liability. Hence, the scope of the investigated rights has been limited to the emergence of the liability, the taxpayer's liability, as well as securing the performance of the obligation and the expiry of the tax liability. This limitation will allow for the full presentation of this institution at the stage from the fulfillment of the tax obligation to its end. The chapter is devoted to the institution of the taxpayer's rights, where the classification, legal nature, and essence are distinguished. The construction of the subject matter was also examined in relation to the distinguished components and determinants.

The analysis of the individual powers will be based on the demonstration of its main components and structure. Therefore, its subject should be designated, because the right is not always related to the taxpayer, and also the interference of the right at the analyzed stages of the tax liability, and thus the consequence of its implementation. In addition, it was also necessary to define the subject and scope of the subject and indicate the correct wording of the provision and the justification for postulating a change in this area. It is also important to examine the subject matter in accordance with the classification adopted in this work. The presented analysis of the taxpayer's right in the tax liability indicates its extremely complex nature, which confirms the importance of the issue under study.

The legislator repeatedly uses the title term in the Tax Ordinance alternately - once in relation to the powers of tax authorities, e.g. in article 2 § 3, or in relation to the taxpayer, e.g. in article 65, which clearly indicates the existence of an institution of entitlement. However, there is no doubt that the starting position is the tax obligation, because the correlation between the entitlement and the obligation in tax law does not exist in its pure form, and the starting point is the obligation relationship.

Adopting the construction of an obligation relationship in tax law - in consequence, leads to the emergence of rights and obligations in a tax obligation. The characteristic entitlement for the civil law is defined as a legal situation, in which one of the subjects can adopt a specific model of behaviour, which as a correlate corresponds to the obligation of the other subject to fulfil the demand included in the entitlement. In contrast, the institution of the entitlement in tax law shows significant differences in this respect. It should be stated that the possibility of adopting a specific model of behaviour is not an exclusive element, which results directly from the nature of public law and tax authority. Activation of the bundle of rights by the taxpayer is not correlated with the automatic obligation of the tax authority, consisting in meeting the content and, consequently, exercising the right.

The conducted analysis allowed to distinguish absolute rights, distinguished as the main ones, and those of a relative nature, distinguished as discretionary ones. The classification made in this dissertation defines the main right in the situation when the taxpayer, in accordance with the applicable tax law norms, has the option of adopting an appropriate model of behavior or withdrawing from such behavior, the tax authority, after meeting certain conditions resulting from the fiscal and legal status of the facts, is obliged to meet and implement the content of the right. On the other hand, a discretionary entitlement should be defined as the taxpayer's possibility to adopt an appropriate model of behaviour, as a consequence of which the tax

authority is obliged to react to the activation of the entitlement, while the realization of the content depends on the institution of administrative discretion, through which the tax authority performs certain actions consisting in determining whether the statutory - subjective prerequisites for meeting the taxpayer's demand and thus for realizing the content of the entitlement exist.

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