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### **Summary of doctoral dissertation**

#### ***titled The institution of limitation in fiscal penal law in theory and practice***

The subject of research in the doctoral dissertation is the institution of limitation in fiscal penal law.

The main goal of the dissertation is to contribute to the discussion on the optimal approach to the statute of limitations for criminal records and its role in guaranteeing justice in the dynamic area of fiscal penal law and judicial practice. The issues raised in the doctoral dissertation regarding the limitation period in fiscal penal law constitute a presentation of the most important problems that concern representatives of doctrine, case law and practice.

The dissertation attempts to highlight this complex issue and indicate directions of changes in legal regulations regarding the institution of limitation in fiscal penal law.

This dissertation uses the dogmatic-legal method supplemented with historical-comparative and comparative methods, case law analysis and statistical research.

The dissertation consists of seven chapters that analyse issues related to the statute of limitations in fiscal penal law. Chapter I presents the assumptions of the dissertation in the plane of theory and empirical research, which constitute an important element of every doctoral dissertation. Chapter II presents the specificity of fiscal penal law, which is a specialized field of penal law, the main task of which is to protect public finances against possible violations in the form of penalisation of fiscal crimes and fiscal offences against tax obligations and settlements of grants and subsidies, against customs obligations and rules of the goods and services trade with foreign parties, against foreign exchange and against the organisation of gambling games. There are shown the essence and scope of the enforcement and compensation function of fiscal penal law, which emphasises the predominance of enforcement over repression. The financial nature of fiscal crime is described. The relationship between fiscal penal law and tax law is shown, and the importance of paying reduced public law receivables is indicated. It is also necessary to describe the measures of

economic hardship in the Fiscal Penal Code. Such a broader perspective allows to determine the place of the institution of limitation in the Fiscal Penal Code.

Chapter III shows the importance of waiving punishment in fiscal penal law. Considerations are made on the meaning of punishment from a historical perspective. It is presented that fiscal penal proceedings are aimed at achieving compensation of financial damage to the State Treasury and other authorised public law entities. The possibility of satisfaction and compensation for property losses of a public creditor leads to the abandonment of the punishment provided for by the legislator. The possibility of waiving the imposition of a penalty and a punitive measure, which constitutes a kind of right of pardon, is also indicated. Another institution that meets the specific objectives of fiscal penal law is absorptive discontinuance and conditional discontinuance of proceedings. The rest of this chapter describes consensual forms of liability, i.e. voluntary submission to liability and separate fine proceedings for fiscal offences. In addition, it is indicated what possibilities exist to modify the punishment to mitigate the perpetrator's responsibility. The institution of counting pre-trial detention towards the sentence imposed on them is a statutory benefit for the convict. The admissibility of converting a penalty of deprivation of liberty into a penalty of restriction of liberty and the multitude of ways of extraordinary mitigation of punishment are also discussed. Next, probation measures relating to imprisonment are described, i.e. conditional suspension of the execution of a imprisonment and conditional early release. In addition, it is described in what situations an act or punishment can be forgiven. The topic of the law of pardon, amnesty and abolition is also discussed. This chapter explains the etymology of the concept of „statute of limitations” and the origins of the institution of limitation, as well as the way of understanding the passage of time for law and its consequences in the form of repealing the criminality of an act. The institution of limitation is described from a historical perspective, also showing the status of this institution in Polish fiscal penal law. At the end of this chapter, the institution of limitation in other legal systems is characterised. General legislative solutions adopted in three legal systems (German, French and English one) are presented. Generally, the institution of expungement of a conviction for a fiscal offence and recognition of the penalty as null and void in relation to a fiscal offence is introduced, which are of a supplementary nature to the institution of limitation.

Chapter IV presents issues related to the development of the institution of limitation of criminal convictions in Polish fiscal penal legislation. In order to determine the meaning and scope of these concepts, individual fiscal penal regulations are analysed and their evolution in fiscal penal law is shown. An attempt is made to show the method of calculating the penalty



periods for a fiscal crime, both involving a reduction or risk of a reduction in public law liabilities, as well as a fiscal crime in which such a situation does not occur. This chapter addresses the current topic of initiating fiscal penal proceedings in the context of the limitation period for a tax liability and the suspension of the limitation period for a tax liability. The rest of this chapter considers the concept of fiscal efficiency of the tax system.

Chapter V covers issues related to the development of the institution of limitation for the execution of penalties and other measures regulated in the Fiscal Penal Code. It discusses the effects of the passage of time during the execution of a sentence, based on the regulations specified in Art. 103 of the Penal Code in connection with Art. 20 § 2 of the Fiscal Penal Code. Obstacles that appear in enforcement proceedings are discussed. The legal nature of the limitation period for the execution of penalties and other measures in the Fiscal Penal Code is analysed. A catalogue of penal measures listed in Art. 22 § 2 of the Fiscal Penal Code together with the appropriately applied Art. 103 § 1 point 3 of the Penal Code are described. Moreover, an attempt is made to clarify doubts regarding the application of applicable provisions regarding the limitation period for the execution of penalties and penal measures. The catalogue and grounds for applying protective measures, as well as the deadlines applicable to the limitation period, are indicated.

Chapter VI shows the etymology of the concept of expungement, the variety of terms regarding expungement and the justification for this institution presented in literature. The conditions required for the expungement of a conviction for fiscal offences and the recognition of a penalty for fiscal offences as null and void are listed. Due to disputes regarding the structure of simultaneous expungement of conviction, it is indicated which solution deserves approval. The essence and effects of expungement of a conviction in the field of substantive fiscal and procedural criminal law are shown. To complement the picture of this institution, the practical aspect related to the proceedings for expungement of conviction is shown. The regulations regarding the time and procedure for expungement of a conviction in the event of conditional suspension of the execution of a sentence for fiscal offences as well as the legal consequences of conviction in practice are described.

Chapter VII contains a presentation of research material on the institution of limitation of criminal convictions in practice, developed on the basis of the data obtained from the Statistical Management Information Department of the Ministry of Justice, as well as file research conducted at the District Court in Jelenia Góra. The research attempted to diagnose whether the institution of limitation of criminal records is effective in the current legal situation. The purpose of presenting statistical material is to illustrate specific trends in

the application of the institution of limitation of criminal convictions in practice, including the total number of limitation periods and types of fiscal crimes and fiscal offences subject to limitation.

The dissertation ends with a summary of the topic, verification of the research hypotheses and *de lege ferenda* conclusions formulated.

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