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## **The resumption of tax proceeding due to substantive tax law defects of final decision**

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### Summary of the doctoral dissertation

The main goal of the doctoral dissertation is to defend thesis, that resumption of tax proceeding also has a clear substantive aspect. The statement that the resumption of tax proceedings is aimed at verifying decisions affected only by procedural defects, and therefore relating to procedural rules, is out of date.

The resumption of tax proceeding is connected to substantive tax law in two aspects. Tax proceeding involves applying the substantive tax law to settle a tax case. The same applies to procedure of revision of final tax decision. A tax decision, in principle, is a result of applying the substantive tax law during tax procedure. However, the substantive nature of the resumption of tax proceeding does not concern solely the subsumption of the legal norms to the facts, but also covers the grounds for the resumption of tax proceeding as circumstances justifying revoking final tax decision.

The General Tax Act contain closed catalogue of grounds for resuming tax proceeding. Four grounds were selected, as connected to misapplication or misinterpretation of the substantive tax law, but also the grounds which do not affect as much the activities of the tax authority as the norm of substantive tax law. The selected circumstances are as follows:

- ratification by the Republic of Poland double taxation treaty or another treaty, which require ratification,
- a result of a settled mutual agreement procedure or arbitration procedure,
- a judgment of the Court of Justice of the European Union,

- a judgment of the Constitutional Tribunal.

The dissertation begins a discussion on the definition and types of tax decisions, the principle of the sustainability of final decisions, the defects of final decisions, and the impact of these defects on the possibility of elimination of a final decision. The early part of the dissertation presents characteristics of the resumption of tax proceedings together with its development in Polish law, the admissibility of proceedings on the resumption of tax proceedings. The third chapter focuses on the grounds for the resumption of tax proceedings, which are defined as procedural grounds for the resumption of tax proceedings.

The next part of the study (chapters 4-7) outlines comprehensively issues and question relating to substantive tax law grounds for resuming tax proceedings. This part of dissertation is aimed at finding the answer to the questions related to the scope of these resumption grounds, the existence of the efficient procedural guarantees of a party in connection with the occurrence of material defects of the final decision, clarification of interpretative doubts, the impact of the substantive tax law on the course of these proceedings and the determination whether the provisions of the General Tax Act adequately protect the party before the decisions containing defects in the legal basis. The considerations also include the postulated procedure of the tax authorities in the different stages of the procedure for resuming tax proceedings, i.e. the examination of the admissibility of resumption, the scope of competence and duties of the tax authorities, the reassessment of the evidence, the validation findings, the interpretation of the law.

The subject of the study is also the relationships that arise between the substantive grounds for resuming tax proceedings and other extraordinary procedures in tax proceedings. In particular, the relationship between the procedure for resuming tax proceedings and the annulment of the final decision due to a blatant infringement of the law.

The dissertation presents numerous proposals *de lege ferenda* aimed at improving the quality of legislation and where it is necessary to strengthen the procedural position of the parties to the procedure for resuming tax proceeding.