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Summary of the doctoral dissertation

**Judicial review of advance tax rulings
by the voivodship administrative court**

The doctoral dissertation is concerned about judicial powers of voivodship administrative courts in the cases of advance tax rulings. The main scientific objective is to present issues related to the development and functioning of the administrative judiciary in this type of specific activity of tax authorities. The dissertation shows the evolution of the Polish administrative judiciary in the case of advance tax rulings, as well as various institutional solutions that inspired it during almost two decades of its functioning. The aim of the synthetic characteristic of the administrative judiciary model is to propose the most efficient solutions in the field of court control over tax administration.

The objective of the doctoral dissertation is to present the basic national provisions regulating the principles of giving advance tax rulings. The legal institution of individual tax interpretations is included in the legal order of most European Union member states. Contemporary models of judicial control of administrative activities, European standards and tendencies in jurisprudence in administrative matters are also presented. The conducted analysis concerns mainly domestic law, but also refers to the norms of international law, including regarding the principle of the right to a fair trial.

The dissertation consists of seven chapters, including an introduction and summary.

In the introduction, the author describes the idea of advance tax rulings. The tax administration is obliged, at the request of a tax entity (tax payer), to issue a ruling of tax consequences that the tax entity draws from the relevant tax facts, whether presented or anticipated, in cases determined by law. The advance tax rulings is a special type of

tax procedure according to the Tax Ordinance. The advance tax rulings "procedure" is not a tax procedure in the strict sense of the term. Rather, it is a specific type of procedure which contains other elements whose outcome is a decision, but only within the meaning of tax law. This fact is confirmed by the rulings of the Supreme Administrative Court, which proclaimed decision as an administrative act which establishes, changes, cancels or defines rights and obligations. The situations that occur after the issue of the advance tax rulings do not meet these cited features. Such decisions are not binding on its addressees.

The author tries to show the range of this legal institution of tax law, which is very common and popular among taxpayers. The legal institution of advance tax rulings is an independent instrument paid by taxpayer and which aims at offering the taxpayer assistance during the process of the tax administration. The dissertation presents that legal institution of advance tax rulings is undoubtedly an appropriate procedure for resolving unclear situations regarding the application of tax law. It can be summarized that the legal institution of advance tax rulings is an instrument for solving problems in the interpretation of tax law, because it provides the possibility to request the tax administration to issue a decision stating under obligation how the tax law would be interpreted.

The dissertation describes the concept and then chronologically reviews the development the legal institution of advance tax rulings in the Republic of Poland, with a particular emphasis on judicial competences in this area. The author presents historical perspective and the genesis of constitutional solutions. The purpose of this part is to demonstrate the impact of historical and political conditions of the state on the solutions adopted in the regulations. It shows that the significant role in controlling the application of the tax law by the public administration authorities perform administrative courts.

Considering the role of courts in shaping the uniform decisions made by tax authorities, it should be noted that administrative courts are vested to jurisdictional supervision and to interpret law in individual cases. It takes into account the role of voivodship administrative courts voted for the protection taxpayer's rights. The Phd research contains general characteristic of judicial review of public administration and the course of individual stages of court proceedings, from the moment the complaint is received to the administrative court until the judgment is issued.

The analysis of how to classify advance tax rulings in the light of The Law of Proceedings Before Administrative Courts dated 30 August 2002 form an important part of work. The author formulates the thesis according to which judicial control in these matters is abstract. Moreover, the author considers important factors of jurisdiction of administrative court. At the same time, the author draws attention to new problems, that may appear in the context of recent amendment to the tax law. Also discussed in the dissertation is the issue of new solutions adopted in the amendment to the Law on Proceedings Before Administrative Courts of April 9, 2015.

The author tries to present arguments in the favour of the new understanding the meaning of judicial control in this kind of cases. The author expresses the opinion that it should be seen in the context of wider efforts to increase the effectiveness of court control carried out by voivodship administrative courts. The postulates of reforming the system of judicial review by administrative courts in cases of advance tax rulings are also presented. The author analyzes doubts concerning the material scope of judicial control, including the possibility of excluding the jurisdiction of administrative courts, which is not necessary in this type of court cases. The author also formulates a possible hypothesis that the legal institution of judicial control in cases of advance tax rulings is only another form of tax consultancy. Finally, attention is devoted to the problem of the effectiveness of judicial control of the operation of public administration authorities.

The thematic scope of the research resulted in the necessity to use several methods. The basic research methods used in the doctoral dissertation are dogmatic and legal methods, analysis and synthesis, description and comparative methods. The doctoral thesis has not only theoretical significance, but it also includes practical guidelines. An important element of the work is empirical research conducted on individual cases in which administrative courts referred to problems with the legal institution of advance tax rulings. Therefore the dissertation describes problems resulting from the current jurisprudence of administrative courts in the field of access to advance tax rulings.

The applied literature as the necessary source for addressing the subject comes from the Poland Republic. The main foreign publication dealing with legal institution of advance tax rulings and judicial review in this type of cases are "*Advanced Tax Rulings and Principles of Law: Towards a European Tax Rulings System*" by Carlo Romano and "*Resolving Legal Uncertainty: The Unfulfilled Promise of Advance Tax Rulings*" by Yehonatan Givati.

The summary of the analysis carried out in the thesis contains comments and final conclusions, containing de lege ferenda postulates, aimed at making the Polish system of judicial control in cases of advance tax rulings more efficiently. Interpretations of the provisions regulating the principles of issuing official interpretations has stirred up many disputes, both in science of tax law and jurisprudence. The judicial review procedure also raises many doubts. The dissertation attempts to present and streamline the procedural problems that must be handled by the judges considering complaints against advance tax rulings. The final part contains conclusions with proposals of individual legislative changes aimed at reducing judicial review in cases for issuing advance tax rulings in proceedings before administrative courts.

Keywords: advance tax rulings, administrative court, judicial review, tax law, taxpayer

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