

„The concept of an enterprise in Polish tax law. Assets and restructuring”

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SUMMARY

The dissertation entitled “*The concept of an enterprise in Polish tax law. Assets and restructuring*” is an attempt to gain a comprehensive look at tax issues related to operating, functioning, trading and inheriting of enterprises in the Polish legal transactions. Furthermore, the analysis conducted in the dissertation includes the economic aspects of running an enterprise, which are required for assessing the status of legal regulations and the course of evolution of the legal institution of an enterprise. The main thesis of this work states that legal regulations of the institution of enterprise and organised part of an enterprise are insufficient and disproportionate to the role of these institutions in the tax law and the role of the enterprise in economic transactions.

The following paper consists of the introduction, five chapters and the conclusion. The objectives of the research were presented in the introduction, as well as the outline of the issues described therein, adopted theses and the research methodology. Various legal and economic aspects of an enterprise and organised part of an enterprise were subject to the study in particular chapters. Detailed hypotheses were formulated therein, which served to formulate the main thesis of the paper. The conclusion consists of the summary of the analysis included in the dissertation.

The first chapter of the paper comprises the juxtaposition of the regulation concerning enterprise which is included in the civil law with legal solutions adopted, based on tax regulations. For comparison purposes, this part of the paper also related to legal solutions concerning enterprise in the American and French legal systems. The completion of the analyses is the presentation of the enterprise from the perspective of economic sciences and outlining the link between the term „*enterprise*” and „*entrepreneur*” and „*economic activity*”.

The second chapter concerns the organised part of an enterprise and it presents the historical circumstances of the institution of the organised part of the enterprise, which influenced the current shape of the legal solutions. Furthermore, the definition of the organised part of the enterprise in the tax acts was also the subject of detailed study - all its crucial components were shown along with opinions on the legal-tax doctrine and practice of tax authorities, administrative courts and the Court of Justice of the European Union.

The third chapter of the dissertation presents the remarks concerning the assets of an enterprise. The subject of analysis was inter alia the issue of various property assets in case of a sole trader and the link between personal assets and assets of an enterprise. The issue of marital property in the context of an enterprise and its assets was analysed separately.

Chapter four concerns the issue of the components of assets of an enterprise. In this part, the analysis concerned the conditions that ought to be met in order to qualify a certain asset to the

enterprise. Further, a complex analysis was performed, which related to a variety of non-tangible assets of an enterprise, including fixed and intangible assets, due to their current and constantly growing meaning for the functioning of enterprises.

Last but not least, the fifth chapter of the paper involved the issue of restructuring activities encompassing enterprises and organised parts of an enterprise. The focus was put on particular restructuring activities. Moreover, a detailed description of succession was provided in relation to both civil and tax law. Further analysis was carried out, which concerned the role of the Anti-Tax Avoidance Clause and other anti-abusive solutions related to the activities targeting enterprise or organised part of an enterprise.

The final part is an overview of the issues covered in each chapter of the dissertation, comprehensive assessment of available legal solutions regarding the subject of the paper, as well as recommendations *de lege ferenda*.