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Introduction

It is a great pleasure to introduce you to the new issue of the Annual Center Review. The Annual Center Review, as a joint project of the Association Center for Information and Research Organization in Public Finance and Tax Law in the Countries of Central and Eastern Europe as well as the Faculty of Law of the University of Bialystok, will present academic accomplishments of the Association Center and the Faculty in the area of research on the issues concerning finances of the countries in this part of Europe. It is essential that our Review promotes texts of doctors and doctoral students besides the elaborations of experienced researchers.

Presenting current problems from a broadly understood field of public finance and tax law in the countries of Central and Eastern Europe, in ACR 2019-2020 no. 12-13 we publish elaborations both in English as well as in Russian written by Authors from such countries as Belarus, the Czech Republic, Poland, Russia as well as from the European Union. The presented articles relate to the problems connected with financial and tax law of Belarus, the Czech Republic, Poland and Russia.

The Authors of particular works concentrated on detailed issues from public finance, such as problems connected with public-private partnership or with funding scientific activity.

This Issue also includes elaborations which are the result of the 1st Eastern European Conference on "Cryptocurrency", which was held on 4th March 2019 at the Faculty of Law University of Bialystok from the initiative of the Student Financial Law Club affiliated to the Department of Public Finance and Financial Law of the Faculty of Law of the University of Bialystok. Published articles are the response of the scientific circles to the emergence and development of the cryptocurrency market and digital economy. Particular Authors analyse legal provisions regulating cryptocurrency market in Poland, Russia, and the European Union as well as examine development perspectives, chances and threats which cryptocurrencies bring.

The current Issue contains two elaborations presented by young scientists from the Czech Republic during XIX International Conference of the Center "Pandemic and Governance – Towards an Approximation of Covid-19 Legal, Administrative, Fiscal and Political Dilemmas". The Authors analysed the impact of the current pandemic on the Czech tax law.

In Annual Center Review we also publish information about current initiatives taken by the Center and the Faculty of Law at the University of Bialystok. In this Issue we present two reports from international conferences co-organised by the Center.

The first report is from the 18th Conference of the Center organised on 19-20 September 2019 in Grodno by Yanka Kupala State University on "Axiology in the Financial Law of the Central and Eastern Europe" and the second report is from the 19th Conference of the Center organised on 5-6 November 2020 by the Faculty of Public Governance and International Studies of the University of Public Service in Budapest on "Pandemic and Governance - Towards an Approximation of Covid-19 Legal, Administrative, Fiscal and Political Dilemmas" as well as the report from the 2st Eastern European Conference on "Cryptocurrency" organised from the initiative of the Student Financial Law Club.

One of the newest initiatives taken by the Center is the idea to publish in Russian a series of works of outstanding Polish representatives of financial law. After long discussions on the selection of the first work in the series, it was decided to edit the book by eminent Polish scholar and politician – prof. Ignacy Czuma entitled "*The Balance of the Budget compared to the budget law of different countries*". This Issue includes a short biography of this remarkable Polish patriot and a researcher as well as his scientific, social and political activity.

I wish you pleasant reading.

Ewa Łotko

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CRYPTO-ASSETS IN THE EU AND POLISH REGULATORY FRAMEWORK REGARDING FINANCIAL INSTRUMENTS

Abstract

Crypto-assets are private, convertible, digital tokens that are managed in a decentralized way using technology called distributed ledger technology (DLT). The term is not limited only to decentralized virtual currencies, but also commodities, digital goods and services. As such they can be considered an addition to a financial investment portfolio, being an alternative to traditional instruments, such as stocks, bonds or cash. However, wide use of crypto-assets is being currently hampered by lack of regulations followed by uncertainties as to the legal qualification of crypto-assets and consequences of investments in such instruments.

From that perspective, it seems crucial to answer a question whether crypto-assets can be considered financial instruments in the light of the current Directive on Markets in Financial Instruments (so called MiFID II) at the EU level and national acts that implemented relevant provisions of MiFID II (in Poland it is the Act on Trading in Financial Instruments). Since neither the EU nor Polish legislator provided a clear answer to that question, some indications can be found only in official statements of regulatory authorities and the doctrine, which however are not always consistent with each other. Furthermore, the Member States used different legislative techniques in the process of implementing MiFID II so the nomenclature can differ.

The article discusses the diverse approaches to crypto-assets in the interpretation of the EU and Polish legislation concerning financial instruments as well as implications of such differences.

Keywords: crypto-assets, blockchain, ESMA, MiFiD II, Act on Trading in Financial Instruments, securities

Introduction

Together with the emergence of Bitcoin and the underlying blockchain technology, the new class of assets – crypto-assets – has developed. As the term itself indicates, the very fundament of crypto-assets is advanced cryptography that enables secure execution of transactions. They can be defined as digital assets which utilize cryptography, peer to peer networks, and a public ledger to regulate the generation of new units, verify the transactions, and secure the transactions without the intervention of any intermediary [Caponera, Gola 2019, p. 5]. For better understanding of the term and differentiation of the variety of crypto-assets, in the literature the following classification was introduced: cryptocurrencies (serving as means of exchange, store of value, and unit of account), crypto commodities (used to provide services or functionalities) and crypto tokens (that represent participations in real physical undertakings, companies, or earnings streams, or an entitlement to dividends or interest payments) [Burniske, Tatar 2017 p. 8].

Similar classification has been applied by the Swiss regulator - Financial Market Supervisory Authority (FINMA) in the document that can be considered the first and relatively comprehensive official statements on how to understand crypto-assets and how to apply to them national regulations on financial instruments. As a reaction to increasing

number of ICOs (Initial Coin Offerings)[1] and transactions involving cryptocurrencies, on 16 February 2018 FINMA published guidelines on how it intends to apply financial market legislation in handling enquiries from ICO organisers. The main purpose of the guidelines was to indicate which of the crypto-assets existing on the market can be considered as financial instruments and therefore subject to the Swiss Financial Market Infrastructure Act. FINMA defined tokens as blockchain-based units issued by the ICO organizer and divided them into three groups:

1. payment tokens (cryptocurrencies),
2. utility tokens,
3. asset tokens,

stating that only the last ones will always be treated as financial instruments [2018, p. 3]. Very similar approach was later introduced by the EU regulator - European Securities and Markets Authority (ESMA). I argue that this approach has a chance to become a standard in the development of legal regulations concerning crypto-assets since, within the EU single market, the standardisation of terms and provisions is a natural and positive tendency. On the other hand, thanks to the legislative technique used in MiFID II [Directive 2014/65/EU of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Directive 2002/92/EC and Directive 2011/61/EU] that gave the EU Member States freedom to choose means and methods to achieve the goals set out in the Directive, the Member States have, with varying intensity and unambiguity, transposed EU standards into national regulations differently. Consequently, their interpretations of the term 'financial instruments' are not consistent. Using the example of the Polish definition of financial instruments adopted in the Act on Trading in Financial Instruments [Journal of Laws of 2005, no. 183, item 1538], in this article I would like to present how the differences in nomenclature can hamper the standardisation process, resulting in an even more urgent need of intervention of a relevant legislator.

[1] Initial Coin Offering means using digital tokens to raise capital for a venture. It is an open call for funding to raise money through cryptocurrencies (an "(…) open call, through the Internet, for the provision of cryptocurrencies in exchange for tokens generated through smart contacts and relying on the blockchain technology, allowing the pledger to enjoy an exclusive right or reward or financial claim (…)", in: Adhami S., Giudici G., Martinazzi S. (2018), *Why Do Businesses Go Crypto? An Empirical Analysis of Initial Coin Offerings*, "Journal of Economics and Business", vol. 100, p. 66. Due to the format of this article, the legal qualification of ICO is not discussed here.

ESMA's approach

On 9 January 2019, ESMA published a comprehensive statement on the phenomenon commonly known as an Initial Coin Offerings (ICOs) and crypto-assets. Attention was paid mainly to the problem of the lack of transparent rules defining whether and which laws apply to these issues and the high level of risk associated with fraud, cyber-attacks, money laundering and market manipulation with regard to crypto-assets. Therefore, as ESMA stated in its Advice, key consideration for regulators was the legal status of crypto-assets, as it determines whether relevant legal provisions are likely to apply, and if so – which ones.

According to the document, crypto-assets are a type of private assets that depends primarily on cryptography and Distributed Ledger Technology (DLT) as part of their perceived or inherent value that is not issued nor guaranteed by any central bank. There are a wide variety of crypto-assets, ranging from so-called cryptocurrencies or virtual currencies, like Bitcoin, to so-called digital tokens issued through Initial Coin Offerings. Some crypto-assets have attached profit or governance rights while others provide some consumption value. Others are meant to be used as a means of exchange and many have hybrid features [ESMA 2019, p. 4].

ESMA in its Advice focused primarily on the legal qualification of crypto-assets under MiFID II as a financial instrument. Financial instruments are defined in Article 4(1) (15) of MiFID II as those "instruments specified in Section C of Annex I." These are i.e. 'transferable securities', 'money market instruments', 'units in collective investment undertakings' and various derivative instruments. In order to determine whether crypto-assets can be included in any of those groups, ESMA divided them into four categories:

1. investment-type,
2. utility-type,
3. payment-type and hybrids of investment-type,
4. utility-type and payment-type.

ESMA observed that crypto-assets can have different features and purposes. "Some crypto-assets, sometimes referred to as 'investment-type' crypto-assets may have some profit rights attached, like equities, equity-like instruments or non-equity instruments. Others, so-called 'utility-type' crypto-assets, provide some 'utility' or consumption

rights, e.g., the ability to use them to access or buy some of the services/products that the ecosystem in which they are built aims to offer. Others, so-called 'payment-type' crypto- assets, have no tangible value, except for the expectation they may serve as a means of exchange or payment to pay for goods or services that are external to the ecosystem in which they are built. Also, many have hybrid features or may evolve over time" [ESMA 2019, p. 8].

ESMA decided that pure payment-type and utility-type tokens will almost certainly not be considered as financial instruments but investment-type ones and hybrids can be considered as transferable securities under MiFID II. As a consequence, the offering of those type of crypto-assets will fall under the scope of all relevant EU regulations concerning business activity on financial markets. The Advice further provides interested entities with a list of potentially applicable legal provisions, besides MiFID II, like e.g.:

- The Prospectus Directive,
- The Transparency Directive,
- The Market Abuse and Short-Selling Regulation,
- The Settlement Finality Directive,
- The Central Securities Depositories Regulation etc.

Interestingly, in order to determine the legal qualification of crypto-asses thus organised in specific Member States, ESMA undertook a survey among national regulators. After receiving from ESMA a sample of 6 different crypto-assets thoroughly described, the regulators were to decide whether according to the national laws, the crypto-assets could be qualified as financial instrument. The responses varied among regulators from 29 countries (27 EU Member States– Poland did not provide answers to the survey, Lichtenstein and Norway). Most of them confirmed that investment-type crypto-assets are financial instruments under national laws and pure payment-type or pure utility-type ones are not. The assessments regarding hybrid-type crypto-assets varied significantly.

Importantly, the vast majority of the regulators did not believe that any national rules in place would capture any of the six case studies.

Crypto-assets under the Polish Act on Trading in Financial Instruments

ESMA did not provide any explanation in its Advice why Poland did not participate in the survey. One of the reasons (apart from possible negligence) can be the difficulty to assess whether any of the crypto-assets are financial instruments under Polish laws.

The basic legal definition of financial instruments in Polish regulations of capital markets, is included in the Act on Trading in Financial Instruments. According to the Article 2 paragraph 1 of the Act, financial instruments within the meaning of the Act are: securities (also bills of exchange and checks, which, however, Article 1 of the Act excludes from its scope) and financial instruments that are not securities, among which are listed:

- units of participation in collective investment institutions,
- money market instruments,
- derivatives related to the transfer of credit risk,
- contracts for difference,
- options,
- futures,
- swaps,
- forward contracts,
- other derivatives meeting the requirements specified in this provision.

In professional literature, it has been pointed out that the definition of a financial instrument included in the Act is of a technical nature. It does not determine a uniform construction of property rights defined as financial instruments in the Polish civil law [Sójka 2015, p. 17].

As it was mentioned above, ESMA by classifying certain types of crypto-assets, namely investment-type and hybrids as financial instruments, determined that they should most likely be treated as transferable securities. And as in MiFID II, this term is defined as "any other securities giving the right to acquire or sell any such transferable securities or giving rise to a cash settlement determined by reference to transferable securities, currencies, interest rates or yields, commodities or other indices or measures", in Poland the legal definition of securities is significantly different and has a long history and legal tradition. Therefore, not only there is a 'numerus clausus' rule regarding securities (disputable however in the doctrine), which practically means that new types of securities can be created only by means of a legal act, but also the Article 3 paragraph 1 of the Act on Trading in Financial Instruments defines securities simply by giving a list of their possible types. Having also in mind that securities can only have one of three possible forms in Polish legal system: document, book entry form or other in accordance with separate provisions, it seems that without the intervention of the legislator, the qualification

of crypto-assets as securities under Polish law will be impossible. In the meantime, there is no official statement of the Polish Financial Supervision Authority (Komisja Nadzoru Finansowego- KNF) determining legal character of crypto-assets, regardless of their type or purpose. Available communications or press releases of KNF concerning cryptocurrencies and ICOs are rather aimed at deterring, indicating risks, uncertainties and possible administrative and criminal sanctions if the competent authorities recognize that the activity in the field of crypto-assets was conducted in breach of law[2].

Conclusions

Growing interest in investing in crypto-assets on financial markets combined with the lack of comprehensive regulation of this phenomenon both in the EU and national law, made the competent regulatory authorities responsible for informing the market how they intend to evaluate activities in this area and recognize possible violations of financial market laws. As it was presented in the article, such documents gave the first semi-binding, yet official, definitions of crypto-assets and attempts to classify them. Importantly, universal formulas to determine their legal qualification were proposed, namely economic function of the crypto-assets, what enabled the assessment whether they can be treated as financial instruments.

However, in my opinion there are more far-reaching implications of these actions. To begin with, it means that 9 years after the emergence of the first crypto-asset (Bitcoin) and the lack of universal qualifications and definitions in legal provisions, the regulators have decided to clarify uncertainties as to the application of legal provisions on financial instruments themselves in order to protect investors and the market. In this way, even though any guidelines, reports or official statements cannot be regarded as legally binding, they will have a great (and hopefully positive) impact on markets of crypto-assets.

On the other hand, the issuance of the ESMA's Advice will not significantly allay the doubts of the participants of crypto-markets. The differences in the methods of implementing the definition of financial instruments from MiFID II in the Member States, as it was presented on the Polish example, can create further uncertainties and interpretation problems. Fortunately, similar formulas of assessing whether a given crypto-asset is a financial instrument have begun to be created by national authorities. Even this, however, will not rule out completely the urgent necessity to change the existing legislation or add provisions to respond to the unique characteristics of the sector, *e.g.* the decentralized nature of the underlying technology, risk of forks, and the custody of the assets. Hopefully, the complex regulation on crypto-assets will be introduced at the European level, because differences in regulations and interpretations resulting from different assumptions of the European and national legislator may lead to different conclusions as to the scope of the provisions on financial instruments. From the perspective of the fundamental principles of the EU single market, this phenomenon should be assessed as extremely negative.

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[2] Examples: Komisja Nadzoru Finansowego (2018), Komunikat w sprawie funkcjonowania giełd i kantorów kryptowalut [online], www.knf.gov.pl/?articleId=61994&p_id=18, access as of 30 April 2019; Komisja Nadzoru Finansowego & Narodowy Bank Polski, Uważaj na kryptowaluty [online], www.uwazajnakryptowaluty.pl, access as of 30 April 2019; Komisja Nadzoru Finansowego (2017), Komunikat w sprawie sprzedaży tzw. monet lub tokenów (Eng. Initial Token Offerings – ITOs or Initial Coin Offerings - ICOs) [online], www.knf.gov.pl/o_nas/komunikaty?articleId=60178&p_id=18, access as of 30 April 2019.

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ДЕФОРМАЦИЯ МОДЕЛИ НАЛОГООБЛОЖЕНИЯ РОССИИ С УЧЕТОМ ВЫЗОВОВ ЦИФРОВОЙ ЭКОНОМИКИ

DEFORMATION OF RUSSIAN TAXATION MODEL TAKING INTO ACCOUNT THE CHALLENGES OF THE DIGITAL ECONOMY

Abstract

In a changing world, which falls under the influence of two inextricably linked processes in the form of digitization and globalization, the issue of determining the position of the legislator in relation to the choice of the model of legal regulation becomes most relevant. At the same time, despite the active development of digitization processes of both the Russian and world economy, there is no single normative and/or doctrinal concept of cryptocurrency, both in economic science and in jurisprudence. We believe that this problem is of particular relevance in connection with the need to determine the state-power strategy of a public entity with regard to the development of Russian financial and tax legislation, considering current features of the financial system development in the digital age. In this regard, we consider the assessment of the "cryptocurrency" phenomenon taking into account the specifics of the Russian tax-legal regulation as one of the categories of taxation law, which is related to such fundamental notions as "object taxation" and "tax base". Also, the development of the current concept of cryptocurrency significantly affects the most important notions of tax law-fiscal sovereignty, tax residency, legal personality, taxpayers and others. In addition, digitization requires, in the Author's opinion, a revision of theoretical approaches to the system and structure tax law sources.

Keywords: digital economy, tax model, cryptocurrency taxation

Ключевые слова: цифровая экономика, модель налогообложения, налогообложение криптовалют

Введение

В настоящее время происходит глубокая цифровая трансформация: внедряется новое поколение технологических решений, многие из которых связаны между собой – обработка «больших данных», использование искусственного интеллекта, распределенные вычисления и хранилища данных. Появление виртуальной валюты в относительно недавнем прошлом, ознаменовавшей собой целую «криптоэпоху» в предпринимательской деятельности в целом и юридической в частности, дает возможности для рассуждений на разных площадках относительно возможности и необходимости правового регулирования налоговых последствий отношений, возникающий в связи с использованием виртуальных валют (криптовалют,

в частности – биткоина), а также сопутствующих им феноменов – майнинга и ICO.

При этом, в соответствии с официальными статистическими сведениями социального опроса, проведенного исследовательским холдингом Ромир, только 44 % опрошенных респондентов в возрасте от 18 лет, проживающих в различных федеральных округах России, имеют какое-то представление о понятии, назначении и особенностях расчетов с использованием криптовалют. При этом большая часть опрошенных (56 %) не знает, что это такое. Такие термины как «майнинг» и «смарт-контракты» оказались незнакомыми подавляющему большинству российских граждан.

На наш взгляд, логично, что новые технологии должны применяться в правовых рамках, существующих как в виде принципиально новой нормативной базы, так и в традиционных регуляторных сферах. В настоящее время вопросы исследования особенностей налогообложения криптоиндустрии признаны приоритетными в развитии направлений практики работы не только государственных органов, но и организаций, представляющих интересы частных субъектов. Например, в «Пепеляев Групп» организована межотраслевая группа по правовому сопровождению цифровой экономики.

В этой связи логичным считаем отметить и официальную позицию государственных органов, формирующих в итоге правовое поле для владельцев альтернативных платежных средств. Как известно, она является достаточно настороженной и порой содержит не столько сами правила поведения, которые правоприменитель мог бы использовать, находясь в условиях возможности или необходимости использования цифровых валют, сколько суждения, предостерегающие от наступления негативных последствий в виде ответственности, в том числе уголовной, в случае использования криптовалют для финансирования террористической деятельности или совершения иных преступлений, в частности, экономических. Именно такого мнения придерживается Центральный Банк Российской Федерации [Информация Банка России от 04 сентября 2017 г.], возложивший на себя осуществление функций мониторинга рынка криптовалют и выработки подходов к определению и регулированию криптовалют. Так, регулятор финансовых рынков неоднократно подчеркивал, что «процесс выпуска и обращения наиболее распространенных криптовалют полностью децентрализован и отсутствует возможность его регулирования, в том числе со стороны государства. Еще одной из ключевых особенностей использования криптовалют является анонимность пользователей таких криптовалют. Также криптовалюта не требует ведения специальной отчетной документации».

Несмотря на это, профессиональное сообщество проявляет весьма живой интерес к вопросам правового регулирования явлений, возникающих в сфере цифровой экономики. Например, отдельные мысли по вопросу допустимости правового регулирования как самих операций с криптовалютами, так и их последствий (в том числе налоговых) высказывали такие известные специалисты в области налогового права, как Е.В. Кудряшова, И.И. Кучеров, И.А. Хаванова [Кучеров, Хаванова, 2017], И.В. Хаменушко [Хаменушко, 2018], И.А Цинделиани, Л.Д. Шарый и другие.

При этом целесообразным представляется начинать подобные исследования с изучения налогового и финансового законодательства зарубежных стран, имеющих соответствующий позитивный опыт регулирования и правоприменения для определения возможности и/или необходимости заимствований наиболее оптимальных с точки зрения налоговой системы России.

Модели налогообложения стран Восточной и Центральной Европы с учетом вызовов цифровой экономики

Бесспорным является тот факт, что передовые позиции в установлении налогово-правовых положений в отношении операций с криптовалютой, принадлежат Сингапуру и Японии, поскольку в этих странах не только разработаны модели правового регулирования криптовалютных операций определен правовой статус виртуальных валют, но и реализуется очередная (третья по счету) реформа.

Устанавливая соотношение моделей налогообложения различных стран, необходимо также учитывать, что не выработано единообразного понимания этого словосочетания ни в законодательстве, ни в правоприменительных актах, ни в доктрине налогового права. Нам представляется логичным использовать терминологическое сочетание «модель налогообложения» в двух смыслах – узком (отрасль законодательства,

регулирующая общественные отношения, связанные с производством и реализацией криптовалют, а также с операциями с ними) и в широком (различные правовые явления, в частности: нормативные акты, правоприменительная практика налоговых и иных государственных органов, особенности структуры и компетенции налоговых органов и других регуляторов). Полагаем, что в любом случае характеристика модели налогообложения должна отражать системообразующие связи налоговых платежей в отдельно взятом регионе, позволяющие принципиально отличить его от иных территорий.

С этих позиций относительно моделей налогообложения криптовалют считаем возможным предложить следующее. Во-первых, сравнение моделей налогообложения

Например, М.С. Поликахин на страницах журнала «Закона.ру» анализирует налоговое регулирование операций с криптовалютами в некоторых зарубежных странах4. Как он указывает, Швейцария всегда славилась уровнем своего банковского сектора и банковской тайной, поэтому не удивительно, что власти этой страны не стали запрещать оборот криптовалют. Она стала неким подобием «налогового рая» для криптовалют. Многие блокчейн стартапы начинали тут и выбрали эту юрисдикцию для организации штаб-квартиры своего бизнеса. Их выбор обусловлен достаточно простым аргументом - в стране криптовалюты освобождены от налогов. Швейцария привлекательна как для ICO, так и для крипто-инвесторов, прежде всего по тому, что законодательно криптовалюта отнесена к деньгам, а не к иностранной валюте. В связи с этим, криптовалюта рассматривается с точки зрения налогообложения как прирост капитала (CGT). Это означает, что применяется только к профессиональным трейдерам. В соответствии с правилами регулирования, инвестирование в ICO признается сбережением.

Дания, в свою очередь, возможно, одна из самых дружественных стран для криптовалюты, имеет весьма привлекательный налог - 0%. Дания не признает криптовалюты в качестве законного платежного средства, поскольку у них нет «эмитента» и, таким образом, освобождаются от регулирования, как указано в соответствующем документе, опубликованном Национальным банком Дании.

Хотя датское правительство выпустило ряд предупреждений о спекулятивном характере инвестирования в криптовалюты, они, по-видимому, следуют строгому протоколу «hands-off» при криптовалютном регулировании, делегируя регулирующее управление в ЕС. Этот регуляторный вакуум в сочетании с полным отсутствием налоговых помех делает Данию высоко привлекательной страной.

Эстония всегда считалась страной открытой и дружелюбной для любых новых технологий. Поэтому не удивительно что они быстро адоптировали свое законодательство к новым реалиям. Правительство Эстонии анонсировало выпуск собственного токена на базе Ethereum- «Estcoin» и после Венесуэлы это вторая нация, запускающая такой проект. Налоговая политика Эстонии особенно благоприятствует инвестициям в криптовалюту, поскольку они не облагаются налогом на добавленную стоимость. Если стартап хочет попасть в Эстонию, все, что им нужно заплатить, — это обычные бизнес - налоги. ICO не облагаются НДС и подоходными налогами, что делает страну одним из лучших мест для запуска ICO.

В Словении в настоящее время созданы сверхкомфортные условия для физических лиц - индивидуальных инвесторов, для которых доходы от прироста капитала не рассматриваются как совокупная часть дохода и не облагаются налогом. Но юридические лица обязаны платить налог на доходы. Такие правила в Словении существуют с 2013 года. Но есть все основания верить в скорые законодательные изменения. В Словении действует одна из самых больших общественных организаций “Bitcoin Association” выступающая при поддержке гражданского общества.

Словения по праву имеет все шансы стать «Силиконовой долиной Европы». В стране планируется интегрировать блокчейн в стратегию развития информационного общества 2020, признание криптовалюты на бытовом уровне (наличие банкоматов по обмену BTC), авторитетное бизнес сообщество из более чем 300 компаний (включая международные) внедривших и использующих распределенный реестр и блокчейн и т.д. Майнинг в Словенни не облагается НДС.

Германия по праву характеризуется лицами, работающими в сфере криптоиндустрии, как одна из самых благоприятных стран, наряду с Чехией и Эстонией. Германия так же благоприятная страна для индивидуального инвестора или трейдера. Законодательство германии не относит криптовалюты к товарам, сбережениям, или деньгам. Вместо этого, наиболее близко подходит определение - иностранные деньги.

Торговля криптовалютой рассматривается как частная продажа. В зависимости от условий сделки, доход от продажи криптовалют может подлежать налогообложению. Так доход свыше 600 Евро, полученный от краткосрочных инвестиций, облагается налогом. Но, если инвестиция была долгосрочной (12 месяцев и более), инвестор освобождается от уплаты налогов.

Декрет Президента Республики Беларусь «О развитии цифровой экономики» подписан 22.12.2017 года. Резиденты ПВТ ждали данного документа давно, так как он фактически расширяет правовой режим их деятельности. Однако данный декрет касается не только резидентов ПВТ, так как в нем ведется речь о развитии цифровой экономики в различных аспектах. Так, декрет касается помимо расширения льгот для резидентов ПВТ таких принципиально новых сфер как регулирование криптовалют, криптобирж, ICO, смарт-контрактов, вводя при этом некоторые инструменты, присущие английскому праву.

Вводится возможность для субъектов хозяйствования Республики Беларусь владеть токенами и осуществлять их обращение, в том числе ICO, посредством криптобирж и операторов обмена криптовалют, резидентов Парка высоких технологий. В том числе нет ограничений для владения токенами для юридических лиц с иностранными учредителями.

Немаловажно, что доходы физических лиц и прибыль резидентов ПВТ от обращения токенов, как и доход от майнинга, не будут являться объектами для налогообложения до 2023 года. В том числе введена возможность осуществлять операции на данном рынка за электронные деньги.

Налоговые послабления коснулись также и резидентов ПВТ, нуждающихся в закупке маркетинговых и рекламных услуг у иностранных юридических лиц. Теперь такие платежи освобождаются от НДС, налогов на доходы иностранных лиц и оффшорного сбора. Ранее значительная нагрузка на такие платежи тормозила развитие рынка реализации программного обеспечения через экосистему продажи приложений Apple и Android.

В Декрете предусмотрена возможность использования институтов английского права, которых так не хватало желающим развивать в Беларуси рынок венчурных инвестиций. В первую очередь речь идет о возможности предоставления конвертируемого займа, заключения опционных соглашений с сотрудниками, а также заключения договоров о неконкуренции с бывшими сотрудникам. Ранее данные правовые инструменты

рассматривались либо как противоречащие белорусскому праву, либо как сделки с сомнительной исполнимостью в случае возникновения судебного спора. Такая ситуация фактически вынуждала участников рынка выводить структурирование сделок в зарубежные юрисдикции.

Декретом также разрешено заключение акционерных соглашений, подчиненных иностранному праву, даже в том случае, если участниками хозяйственного общества являются только белорусские лица. Также допустимо установление подсудности разрешения таких споров иностранного суду или международному арбитражу. Данная норма также является беспрецедентной, особенно в части установления подсудности и введения возможной арбитрабельности спора.

Либерализация коснулась и миграционного законодательства. Иностранным инвесторам и IT специалистам разрешено пребывать в Беларуси без визы до 180 дней. Также резидентам ПВТ для найма иностранных сотрудников не будет необходимости получать специальное разрешение на работу в Беларусь через органы внутренних дел.

Декрет Президента Республики Беларусь «О развитии цифровой экономики» можно назвать первым в своем роде достаточно революционным нормативно-правовым актом, регулирующим развитие криптоэкономики в государстве. Какова будет практика применения данного Декрета, особенно в части применения белорусскими судами элементов английского права? На данный вопрос ответ может дать только правоприменительная практика, которая только начинает формироваться на наших с вами глазах.

Как мы видим, на «криптовалютный климат» внутри государства влияет совокупность факторов: географических, социально-культурных, экономических, политических и других. При этом даже при наличии единых правил правового регулирования для стран Евросоюза по ряду ключевых экономических вопросов, каждое государство по-разному оценивает криптовалюту и устанавливает свои условия налогово-правового регулирования операций с ней. В связи с эти считаем принципиально важным отметить, что вопросы правового регулирования весьма актуальны в общемировом масштабе.

Налогообложение операций с криптовалютами в России на современном этапе

Исчисление налога на добавленную стоимость (далее – НДС) при совершении криптовалтных операций.

Для целей налогообложения НДС биткоин предлагается рассматривать в качестве товара или услуги, пользуясь ст. 38 НК РФ, где содержится определение соответствующих понятий для целей налогообложения. В мае 2017 г. зампредседателя Банка России О.Н. Скоробогатова предложила облагать налогами операции с криптовалютами (с учетом особенностей, которые найдут отражение в законопроекте) исходя из их квалификации как «цифрового товара». Чуть позднее Председатель ЦБ РФ Э.С. Набиуллина охарактеризовала биткоин, в том числе для целей косвенного налогообложения, как digital asset («цифровой актив»).

Как известно, не признается объектом обложения НДС осуществление операций, связанных с обращением российской или иностранной валюты, за исключением целей нумизматики (п. 3 ст. 39, п. 2 ст. 146 НК РФ). Схожий подход может быть применен и к реализации биткоина.

Однако виртуальные валюты имеют такую особенность, как анонимность их владельцев, что может означать, что стандартные подходы к раскрытию схем ухода от налогообложения могут стать неэффективными. Это потребует адекватного правового регулирования вопроса принципиальной возможности раскрытия сведений о владельцах криптовалют, а также объемов таких сведений для целей обращения к ним национальных налоговых органов. В конечном итоге подлежит оценке, стоит ли устанавливать правила налогообложения для криптовалют, если нет уверенности в том, что суммы аккумулированных налогов будут больше тех средств, которые придется потратить на администрирование соответствующих платежей.

В этой связи целесообразно также подумать о «пороговых» значениях сумм криптовалют, находящихся в собственности того или иного субъекта, при превышении которых налогообложение вообще есть смысл реализовывать, а при недостижении подобных «пороговых» значений есть смысл предусмотреть освобождение от налогообложения. Кроме того, при правовом регулировании налогообложения операций за биткоины нужно учитывать наличие или отсутствие предпринимательского характера такой деятельности.

При решении сопутствующих налоговым вопросам особенности организации бухгалтерского учета и отчетности при осуществлении криптовалютных сделок, основными вопросами, которые в ближайшем будущем предстоит попутно решить законодателю — это правила вычета расходов, а также трудоемкость их подтверждения.

С точки зрения бухгалтерского учета, непосредственно связанного с исчислением НДС, не предусмотрено специального счета для учета криптовалюты, причем ни в российской, ни в общемировой практике. Теоретически можно предположить, что могут быть рассмотрены варианты учета криптовалюты на счете 04 «Нематериальные активы» или счете 55 «Специальные счета в банках», предусмотренные РСБУ.

Исчисление налога на доходы физических лиц (далее – НДФЛ) при совершении криптовалтных операций.

Минфин России в своих письмах и разъяснениях избегает каких-либо конкретных выводов, сообщая, что особый порядок налогообложения операций с криптовалютой главой 23 НК РФ не предусмотрен. В связи с эти Минфин России указывает на необходимость при исчислении НДФЛ по операциям с криптовалютой налогоплательщикам необходимо руководствоваться общими положениями НК РФ. Чуть более обширное толкование появилось относительно недавно и связано с налогообложением НДФЛ сделок по продаже криптовалюты. Так, Минфин России фактически признает, что п. 17.1 ст. 217 НК РФ к таким операциям не применяется, поскольку освобождается от налогообложения доход от продажи движимое имущество, если лицо владеет им более трех лет. Также не подлежит применению пп. 1 п. 2 ст. 220 НК РФ об имущественном вычет для доходов от продажи имущества, если лицо владеет им более трех лет. Соответственно, подобные доходы невозможно уменьшить на сумму, не превышающую 250 тысяч рублей. Исходя из формулировок анализируемого документа, доходы от продажи биткойнов разрешается уменьшать на документально подтвержденные расходы от их же приобретения. На наш взгляд, это означает возможность для правоприменителя, производящего реализационные сделки с криптовалютой, учесть доходы, связанные с ее продажей.

Об исчислении налога на прибыль организаций по операциям с криптовалютой.

Позиция Минфина России по вопросу исчисления налога на прибыль по операциям с криптовалютой также единообразна. Министерство рекомендует при исчислении налога на прибыль по операциям с криптовалютой (в том числе по операциям майнинга) руководствоваться главой 25 НК РФ, отмечая, что особый порядок при операциях с криптовалютой положениями главы 25 НК РФ не предусмотрен.

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CRYPTOCURRENCY: PROBLEMATIC ASPECTS OF LEGAL REGULATION

Abstract

The article is devoted to the analysis of the legal nature of the cryptocurrency as an object of financial and legal regulation from the point of view of Russian legislation. It includes the analysis of the qualification of the cryptocurrency described as money, electronic money, foreign currency, other property, as well as the possibility of assigning crypto-loans to obligations rights. The conclusion is made about the possibility of treating cryptocurrency as private money on a par with national currencies.

Keywords: cryptocurrency, blockchain, financial law

Introduction

With the introduction of new digital technologies, the emergence and development of new objects, which are based on public blockchain of such cryptocurrency as Bitcoin, Lightcoin, Ethereum, etc. (hereinafter "cryptocurrency"), there is a need for legal regulation of both the very instruments and relations arising in connection with their use in general.

Currently, legal discussions are quite brisk about the legal nature of the cryptocurrency [Ponsford 2015, Prayogo 2018]. The qualification of the cryptocurrency is one of the most important aspects as an object of civil rights, which creates the conditions for legal regulation of transactions with the use of cryptocurrency, which will simultaneously allow legal regulation and settle other equally important issues of relations arising in connection with the use of cryptocurrencies.

Nowadays, most of the countries are trying to analyse the status of cryptocurrency and introduce legal regulation meeting the interests of the state and business.

Cryptocurrency Is Money

As you know, the notion "money" is an economic substance, thanks to the works of Friedrich A. Hayek, McConnell K.R., Bru S.L., M. Friedman, J.M. Keynes, L. Harris [1975, p. 5, 2003, p. 938, 2016, p.17, 1990, p. 750] and other well-known economists, whose works were devoted to the study of economic relations. Money is a special commodity, which is the universal equivalent of the value of other goods and services. Modern economic science distinguishes five functions of money.

1. Measure of value. Money allows you to evaluate the value of goods by setting prices.
2. Means of circulation. Money plays the role of an intermediary in the process of exchange.
3. Means of payment. The function of money that allows the time of payment not to coincide with the time of payment, that is, when the goods are sold on credit.
4. Means of accumulation and saving. The ability of money to participate in the process of formation, distribution, redistribution of national income, formation of savings of the population.
5. The function of world money. It manifests itself in the relations between economic entities: states, legal entities and individuals, located in different countries.

It is believed that money fulfils its task only under the condition of the participation of people who use the

opportunities of money. Only people can determine the prices of goods, apply money in the realization and payment processes, and also use them as a means of accumulation. Thus, theoretically, any object that performs these functions can be considered money.

Another important aspect of the notion of "money" is connected with the notion of a "legal tender" and state monopoly on money issue. In accordance with Article 75 of the Constitution of the Russian Federation, the ruble is the monetary unit in the Russian Federation. Monetary emission is carried out exclusively by the Central Bank of the Russian Federation. Introduction and emission of other money in the Russian Federation is not allowed.

According to Article 140 of the Civil Code of the Russian Federation, the ruble is a legal tender, mandatory for acceptance at face value throughout the territory of the Russian Federation.

Payments in the territory of the Russian Federation are made by cash and non-cash payments.

Cases, procedure and conditions for the use of foreign currency in the territory of the Russian Federation are determined by law or in accordance with the procedure established by it.

As L.A. Luntz noted [2004, p. 35], the legal significance of the legal payment force assigned to a monetary sign is that the creditor under the obligation which can be repaid by way of a monetary payment, having refused to accept the legal tender, falls into delay. The status of legal means of payment allows to repay by proper execution of any monetary obligation in the territory of the Russian Federation by law without the need to express the will of the creditor. All other forms of payment (counter-payments) do not have the status of legal tender. At the same time, a legal means of payment is used to fulfil public-legal obligations of a monetary nature, for example, for paying taxes [Savalyev 2017, p. 24].

Art. 128 of the Civil Code of the Russian Federation attributes to the objects of civil rights things, including cash and certificated securities, other property, including non-cash funds, uncertificated securities, property rights; results of works and services; protected results of intellectual activity and equated to them means of individualization (intellectual property); intangible goods.

In the current Russian legislation, nothing prevents the cryptocurrency from being attributed to civil rights objects, since Article 128 of the Civil Code of the Russian Federation does not contain an exhaustive list, but taking into account that the cryptocurrency performs different functions when it is applied (goods, investments, financial assets ensuring payment of a commission for the implementation of transactions on blockchain technologies, as an essential element of the system, if we consider by analogy as electric power for any production), appropriate are different legal regulation of the cryptocurrency, depending on what function such a cryptocurrency will perform.

Cryptocurrency Is the Equivalent of Cash

On the example of the most famous cryptocurrency, bitcoin, we can argue that this is an electronic, digital equivalent of cash or that institution that will eventually be able to displace cash. The authenticity of cash is verified through viewing watermarks, security thread, microprinting, with the help of special technical means, etc., while in the case of cash there is no register containing operations records (in this connection there are certain restrictions of cash settlements [The Bank of Russia instruction of 07.10.2013 N 3073-U "About implementation of cash payments", registered in the Ministry of Justice of Russia 23.04.2014 N 32079] and there is a centuries old problem with their counterfeits of both coins and banknotes), in the case of cryptocurrency - bitcoin, the transaction register guarantees their authenticity. For example, Germany's legislation allows the attribution of cryptocurrencies to financial instruments, which are a form of "private money" that can be taxed [§24 of Article 14 of the Federal law "On the national payment system" №161-FZ of 27.06.2011].

In his work "Private money" Friedrich. A. Hayek offered a radically new way to achieve monetary stability - a system based on the competition of parallel private currencies. His idea is simple, such currency should be recognized as an ordinary commodity and accordingly produced in a market way. In his opinion, "only those currencies will remain that will fulfil the functions of money best of all: to serve as a means of payment and preserve their value over time" [Hayek 1975, p. 5]. It seems that we are on the verge of this reality because of the following.

The society had a need to create an entity similar to cash only in the conditions of a new space. For example, if the simple transfer of a note by one person to another when calculating cash is indicative of the transfer of the value determined by its value, and such a transfer does not require any assurance by the third party, since these are only two persons' relations and nobody prevents them from doing this transfer, then when translating electronic

funds in order to carry out the transfer of value expressed in electronic money from one person to another there is a necessity to seek help from a third party (bank, non-bank credit institution which on legal grounds acting as an intermediary in relation to these two persons carrying out transfers of electronic money, has the right under certain conditions to question the legality of such transfer and to refuse to carry out the transfer of funds [§ 24 of Article 14 of the Federal law "On the national payment system" №161-FZ of 27.06.2011].

This example demonstrates that cash can be transferred without any consent of the third party. This factor indicates the unshakable control of such a transfer. And this factor is fundamental for the development of the cryptocurrency, because it is also based on the mechanism of inadmissibility of interference by the third party - control on the one hand, anonymity and reality (genuineness) of the very essence of the cryptocurrency on the other.

Another factor of popularity of the cryptocurrency is its decentralization, unsettled activities of persons, issuing cryptocurrency. In fact, everyone can issue their own cryptocurrency. There is only a question of its market competitiveness, the ability of the circulation and trust of the community, the issue of an agreement on the one hand, but of course the danger, insecurity on the other, which needs legal regulation, and relations of such kind in defence on legislative level.

Thus, if the cryptocurrency is recognized as money, in the sense of the legislation of the Russian Federation, and treated as an alternative monetary unit, then explicit prohibition is clearly seen in relation to such an approach. Accordingly, payment of goods and services with the help of bitcoins and other cryptocurrencies in the territory of the Russian Federation is contrary to the current legislation.

Cryptocurrency Is a Foreign Currency

The opinion that it is possible to equal the cryptocurrency to foreign currency, have been repeatedly expressed by the media. According to subparagraph 2) of Article 1 of the Federal Law No. 173-FZ of December 10, 2003 (as amended on July 18, 2017) "On Currency Regulation and Currency Control" [Paragraph 24 of article 14 of the Federal law "On the national payment system" №161-FZ of 27.06.2011] (hereinafter the "Law on Currency Regulation"), the *foreign currency* is:

- token money in the form of banknotes, treasury notes, coins in circulation and being a legal means of cash payment in the territory of the relevant foreign state (group of foreign states), as well as have been withdrawn or are withdrawn from circulation, but subject to exchange the indicated banknotes;
- funds in bank accounts and in bank deposits in monetary units of foreign states and international monetary or settlement units.

From the above definition results that the nature of the cryptocurrency is not covered by the term "foreign currency" because of the following:

1. The cryptocurrency is not materialized in form and does not exist in cash. It is also not covered by the second qualifying attribute, constituting "the recognition of the cash payment as the legal means". For the same simple reason, the absence of a cash form, if one abstracts from the concept of "cash" and considers from the point of view "means of payment", it is also seen that cryptocurrency cannot be attributed to the concept of "foreign currency", because the territory of the Russian Federation is OK (MK (ISO 4217) 003-97) 014-2000.
2. All-Russian Classifier of Currencies (app. by the Resolution of the State Standard of Russia No. 405-st of 25.12.2000) (ed. from 02.06.2016), according to which the name of the country and territories correspond to the currency of circulation, and, respectively, there is no such in the indicated classifier, there is no connection between the provisions on cryptocurrency and the correlation of the latter to any country.
3. If viewed through the prism of non-cash foreign currency, according to the regime of existence, cryptocurrency is not accumulated in different bank accounts and deposits and is not covered by the notion (concept) of international monetary and settlement units[1], since full decentralization is established in respect of the cryptocurrency (the absence of an external or internal administrator in the network guaranteeing (conforming) the correctness of system operations, including the lack of ability to influence the transactions of system participants. The reliability of transactions is

[1] International settlement unit, international counting currency — artificial supranational currency, which was designed to measure international claims and liabilities of payments between countries. It is a form of world money.

ensured in the network by Blockchain technology (replicated distributed database - distributed registry technology), respectively, the equalization of the cryptocurrency to foreign currency from the point of view of the legal regime established by the legislation with respect to foreign currency (by regulations on currency regulation and currency control) is legally incorrect.

Cryptocurrency Is Electronic Money

In accordance with subparagraph 18) of Article 3 of the Federal Law No. 161-FZ of June 27, 2011 (as add. on July 18, 2017) "On the National Payment System"(hereinafter referred to as the "Payment System Act"), 'electronic funds' are cash which was previously provided by one person (the person who provided money) to another person who takes into account information on the amount of money provided without opening a bank account (to an obligated person), for the fulfilment of the monetary obligations of the person who had provided money, to the third parties and in respect of which the persons and for which the person who provided the money, has the right to transfer the orders exclusively with the use of electronic means of payment.

Electronic means of payment is a means and (or) a method that allows the client of the operator on money transfer to draw up, certify and transfer orders for the purpose of transferring funds within the framework of the applied forms of non-cash payments with the use of information and communication technologies, electronic media, including payment cards, as well as other technical devices - ((item 19) of Article 3 of the Federal Law "On the National Payment System") [Federal law of 27.06.2011 N 161-FZ (ed. of 18.07.2017) "On the national payment system"].

Electronic funds are the right of the owner of electronic money to the operator of electronic funds about their repayment (exchange for cash or non-cash money). Electronic funds are accounted for in a special virtual account ("electronic purse"), while funds are reflected in the bank account of the operator of electronic money due to which (funds) all electronic funds, accounted by the operator of electronic funds, will be paid off. One more detail - before the transfer of electronic funds, it is supposed to be prepaid in cash or non-cash money. After that, it becomes possible to make a payment - the operator of electronic money transfers it to the recipient.

The transfer can be carried out both on the basis of the order of the payer, and on the basis of the demand of the recipient of funds. Electronic money is written off from the virtual account of the payer and included into the recipient's virtual account. After the calculations, electronic money can be transferred back to cash or non-cash form. Electronic money is a means for settlements, the availability of which is possible if there is money in the sense of Article 140 of the Civil Code of the Russian Federation.

Cryptocurrency is not subject to the notion of electronic funds, since it has a different mechanism of origin. The emission of the cryptocurrency is carried out through the decentralized emission. The intermediaries (any special subjects, banks, clearing centres, etc.) do not need to transfer it from one entity to another; there are no territorial borders for translation; it is not possible to cancel a transaction and there is a possibility of converting a fiat currency[2].

I suppose that the disclosure of the concept of "cryptocurrency" through the notion of "digital financial asset" is not entirely good, because there is some misunderstanding in the difference between such concepts as cryptocurrency and digital assets. Although you can certainly argue that each cryptocurrency is a digital asset in its essence. But they differ in the way they are managed. There are many differences between financial instruments. A digital asset exists in binary format, i.e. binary files are opposed to text files, while text files are a special case of binary files, so in the broadest sense of the word, any file is suitable for the definition of "a binary file".

A digital asset can be placed anywhere - from movies to documents and any other types of data. Any digital data can be called "digital assets", for example, a folder on a computer desktop, since the data composing this asset are stored on electronic media, on digital devices, including computers, mobile devices, media players, etc.

And each cryptocurrency can be marked as a digital asset. However, not every digital asset is a digital currency. An excellent example of this is XRP, which many specialists classify erroneously as cryptocurrency. This is a digital resource stored in a distributed register, and it does not work like a digital currency.

[2] Fiat money (from Latin Fiat - the decree, "So mote it be") is money, the nominal value of which is established and guaranteed by the state, regardless of the value of the material from which the money is made, or located in a bank's depository (unsecured money).

XRP in its case can only be used in the Ripple Consensus Ledger[3]. Even in this case, the use of transactions in this register is not obligatory. The value of a digital resource often depends on the organization which they are connected with. Higher demand for such an asset often increases its value. However, the control of access and portability of these assets is supported by individual companies.

The majority of cryptocurrencies are known for their decentralized aspect, the security, contained in the very essence of the underlying mathematical algorithm in it. At the same time, cryptocurrency is characterized by management of the exchange discreteness (manipulation), which may not be typical for any other digital asset. Moreover, most cryptocurrencies have an offer limit, while digital assets can in theory be created indefinitely, if necessary. Obviously, these two types of values are very different from each other, which should always be considered.

Cryptocurrency is a Law of Obligations

The position that such a cryptocurrency as bitcoin is a mandatory claim right arising on the basis of an agreement between the participants of the corresponding settlement system was expressed by the Doctor of Law, Professor L. Novoselova. In support of her opinion, Professor L. Novoselova classifies bitcoin as non-cash money, insofar as bitcoin fulfils the function of money, its transfer for the purpose of paying for goods, works and services should be regarded as a final payment terminating the monetary obligation by execution[9] [Novoselova 2017].

According to the legal construction of the law of obligations, a relative legal relationship is such in which there are specific participants bound to a certain conduct pursuing a property interest (as opposed to an absolute legal relationship in which an indefinite number of persons are opposed to the authorized person, for example, in property relations, operational management) i.e. in obligatory legal relations the obliged person always resists to the authorized person.

[3] Ripple is a cryptocurrency platform for payment systems, focused on operations with the exchange of currencies without refunds. Developed by Company Ripple. The consensus register (ledger) is a special feature. The system was launched in 2012. The protocol supports "tokens" representing fiduciary money, cryptocurrency, exchange commodities or other objects. In its essence, Ripple is based on an open divided database, uses the process of agreement. It allows to make an exchange in a distributed process. The internal cryptocurrency of the Ripple network is called XRP.

The fact is that when you acquire a cryptocurrency, you, in fact, buy the right to use it, since the cryptocurrency does not have a real form - it does not physically exist, and all operations for buying and selling the cryptocurrency are records of transactions that are stored in multiple block chains (blockchain). That is, managing a cryptocurrency account, you manage as a matter of fact records and keys, which are stored in a wallet. In itself, joining in the platform and opening a digital wallet does not create the obligations of participants in such a system to acquire a cryptocurrency, i.e. the wallet can remain empty. After acquiring cryptocurrency by the participants, the participant does not have the obligations and the rights of claims to other participants of the system. At the same time, the participant treats as their own the cryptocurrency accountable in the crypto purse, and the publicity and the transparency of the data contained in the distributed registry Blockchain ensures the relevance (fixity) of the given property to the given participant in such a format that does not allow violation by all other participants.

Such a construction of relations reminds something of the principle of publicity in property law existing in German law, which is realized either in the form of a record in the land register (Grundbuch) (since only land plots are related to real estate here), or in the form provided for in § 929 BGB for the alienation of movable things "property contract" (Einigung). This latter is based on the "principle of abstraction" (Abstraktionsprinzip), or on the "principle of division" (Trennungsgrundsatz) of two transactions - the obligatory (Verpflichtungsgeschaft), which generates the rights and obligations of its parties, and real, which is essentially the fulfillment of the transaction obligation (i.e. a kind of managerial transactions - Verfugungsgeschafte). By virtue of the "principle of abstractness", the person who obtained the movable thing by the "property contract" becomes its owner regardless of the validity of the transaction obligation, and the actual possession of the movable item is presumed as the owner's possession (compare paragraph 2 of § 854 BGB) [Bando, Bryukhov, Valeeva 2016, p. 15].

I believe that the cryptocurrency cannot be attributed to either obligatory (mandatory) or to proprietary rights, since it is not fully covered by those legal regimes that exist in property and obligatory law. The special regime with respect to certain objects of civil rights in fact is established not for the objects themselves, but for persons who commit legally significant actions with them. But different objects of civil rights in this capacity differ from

each other precisely by their legal regime, as well as by their physical or economic properties, the peculiarities of such a regime being formed in the form of certain types of property (civil) rights. An example here is the allocation of non-cash funds and uncertified securities among other objects of civil rights and the establishment of special legal regulation.

Thus, in the absence of a special legal regime established by law in respect to cryptocurrency, there will be attempts to attribute it or to equate it with existing ones.

Analysis

After the analysis of the various sources it is possible to define the notion (concept) of cryptocurrency in the following way – it is a digital (virtual) currency, the creation and control of which are based on cryptographic methods (mathematical algorithms), in respect of full decentralization (absence of external or internal administrator in the network guaranteeing (confirming) the correctness of the operations of the system, including the lack of ability to influence the transaction participants in the system). The reliability of transactions is provided in the network by the Blockchain technology (replicated distributed database - technology of the distributed registry), algorithms of which allow to combine the transactions in "blocks" and add them into "chain" of the existing units to ensure the stability of the base of the chain of transactions blocks with the use of cryptography elements and consistent hashing.[4] The continuity is ensured by the inclusion hash sum of the previous block into the current block, which does not alter the unit without changing the hashes in all subsequent blocks. As a guarantee, mathematical calculations are a certain value of the physical world.

Thus, the cryptocurrency is a completely new object of legal regulation, based on the fundamentally different approaches, which require different legal regulation at the national level and at the level of international legislation. For this reason it will be necessary to define the conceptual apparatus, to provide various legal regulations in respect of the function performed by the cryptocurrency (for example, the instability of the course of the cryptocurrency has negative consequences for the purposes of its use in the investment asset (for accumulation purposes), as a unit of measurement and income generation, as there are certain difficulties in the current cryptocurrencies in the form of obtaining interest income, as far as at present the yield of the cryptocurrency may come to the speculative growth or the drop in value, the creation of conditions for the competition of cryptocurrencies, legal grounds and conditions and the organization of activities by mining cryptocurrency, that is, the creation of rules protecting both private legal interests and public legal interests that ensure national security). In connection with this it will be necessary to identify a subject and provide liability in the event of a possible failure of the system, authorized or unauthorized modification of the program code, as well as the resulting consequences in the system and the procedure for eliminating them and restoring legal balance.

Cryptocurrency as an object of financial and legal regulation requires the definition of the nature of the cryptocurrency in the financial and legal sense, for the purpose of tax transactions, in connection with the use of cryptocurrency. It is necessary to consider that the approaches to the tax-legal regulation of any economic activity in various countries are not the same. The Internal Revenue Service (IRS) considers bitcoin as a property for the purposes of tax regulation, and not as a currency. Any transactions using bitcoins are taxed in accordance with the principles applied to property taxation. Thus, the owners of bitcoins must inform the IRS about all their transactions. The US tax residents who sell goods and services in exchange for cryptocurrency are obliged to include the cost of the obtained bitcoins in the annual tax return. It is calculated on the basis of a fair market price in the US dollars at the date of receipt (i.e. the exchange rate on that day). Cryptocurrency is considered as a capital asset in the hands of a taxpayer (similar to shares, bonds and other investment instruments), so this obliges to consider profits and losses when calculating the taxable base. The profit arises in the case when the sale price in the US dollars exceeds the adjusted purchase price. A loss arises when the sale price is lower than the adjusted purchase price. Miners who obtain bitcoins on their own equipment are also subject to taxation. They are also obliged to include the fair market value of the extracted cryptocurrency in their annual gross income [Aryanova 2017].

In 2015, the European Court of Justice (the highest court of the EU) ruled that operations in bitcoins are exempt from value-added tax (VAT) in accordance with the regulations governing circulation of currencies, banknotes and coins used as legal tender. Thus, according to the Court, bitcoin is a currency, not a property. Although no VAT is withheld when buying and selling bitcoins, other

[4] Hashing is a mathematical transformation of information. Hash algorithms are used to verify the integrity and authenticity of files.

transactions may be taxed, for example, income tax or capital gains tax.

I believe that at present it is difficult to determine which tax policy in relation to the cryptocurrency will be chosen by the legislator. Everything depends on the way by which the cryptocurrency will be determined from the point of view of fiscal interest in the legislation, if as "goods", then VAT will be taken, if as "income" - then personal income tax and income tax. Further, it will be difficult to decide the question of how it is supposed to be paid - a certain tax only by ruble or by cryptocurrency, too. If we imagine such an opportunity, it will be necessary to create conditions for the creation and formation of crypto budget, following the example of the gold and foreign exchange reserve, which is formed from other assets, other than the national currency, both in the form and in the economic status and regime. Simultaneously with the definition of the order of taxation of cryptocurrency, the questions related to tax administration arise. Who and how will collect information, how will the accumulation and security of information be ensured, which will be considered a violation of the legislation on taxes and fees.

Conclusion

The above analysis confirms that much work needs to be done in a short time. The world does not stand still and at present there are polar situations where, on the one hand, rapidly developing information technologies are introduced into all spheres of society and human life, on the other hand, there is a lack of timely prepared legal mechanisms, the delayed implementation of which can have the opposite effect, when it is not the State that will manage the system, but the system will manage the State, the creation of a substance competing with the public order, through the existence of parallel systems, which can lead to strong competition and effective development, or vice versa to its suspension. Mankind has always tried to understand and to review the form and the role of money. We believe that the task of today's generation is to explain the need and necessity to transform money into a crypto virtual form. Accordingly, this cannot but affect the functioning of public finances. Because of this, it causes modernization of the legal regulation in the sphere of public finance. A special place in the modernization of legal regulation belongs to the rules of public financial law. It appears that a large group of rules is being formed in the system of public financial law, which are forming a complex of legal institutions that are transformed into the sub-sector of the public finance law – the issue law.

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TAX FAIRNESS AND CRYPTOCURRENCY

Abstract

Reluctance to pay taxes is a natural feature of man. Given the above, it is not surprising that taxpayers are constantly looking for all possible ways to avoid taxation. The legislator, realizing the above, introduces a number of regulations aimed at counteracting dishonest actions of taxpayers. In the context of cryptocurrencies, these are in particular solutions aimed at limiting anonymity in the circulation of cryptocurrencies. The taxpayers, taking advantage of the fact that trading in cryptocurrencies is very specific, complicated and partially anonymous, try to outsmart the tax authorities and pay no taxes on income from such transactions. Also, the fact that until January 1, 2019, there was no regulation regarding the taxation of cryptocurrencies, and the introduced regulation also raises many doubts, does not encourage taxpayers to honestly settle accounts with tax authorities. Tax authorities, on the other hand, do not have the tools that would enable them to counteract taxpayers' dishonesty effectively, what leads to the depletion of tax liabilities.

Keywords: anonymity, cryptocurrency, virtual currency, tax evasion, tax fairness

Introduction

One of the most famous examples proving that taxes should be paid is the case of the American gangster Al Capone. The authorities were unable to prove him other offenses, thus accused and convicted him for avoiding paying taxes. This problem remains valid today, as taxpayers undertake all, not always lawful, actions aimed at reducing taxation or its complete avoidance. This is also an issue in the case of virtual currencies (cryptocurrencies), which due to their specificity, seem to taxpayers to be a good way to avoid the payment of tax on income derived from the paid disposal of virtual currencies. The main aim of this article is to analyse the taxation of cryptocurrencies in relation to tax fairness. The article uses formal-dogmatic analysis and literature analysis.

Main part

J. J. Rousseau rightly claimed that "man is born free, and everywhere is in a grip". Undoubtedly, the limitations of freedom in the form of imposed taxes fall within the scope of these grip about which the French philosopher wrote. The property is subject to constitutional protection because everyone has the right to it [Journal of Laws of 1997, no. 78, item 483]. This protection is equal for everyone, and the property itself may be limited only by law and only to the extent that its essence is not affected. On the other hand, according to Article 84 of the Constitution of the Republic of Poland, "everyone is obliged to bear public burdens and benefits, including taxes, specified in the Act" [Journal of Laws of 1997, no. 78, item 483]. It is not without a reason that tax law, apart from criminal law,

is said to be the most detrimental to the freedom of the individual.

One of the natural instincts of man, settled in his vital sphere of the psyche, is a reluctance to pay taxes [Kosikowski 2007, pp. 138-164]. The English satirist Jonathan Swift, who lived in the 18th century, claimed that "in tax matters, two times two is sometimes not four, only one". This is due to the fact that high tariffs encourage smuggling and high taxes encourage tax evasion. This rule, sometimes called the tax multiplication table, is still valid today because the increase in tax is not always accompanied by an increase in budget revenues [Gomułowicz, Mączyński 2016, p. 360]. According to A. Gomułowicz, "no tax system has ever been, is not and will not be based on trust in the taxpayer, and resistance to the implementation of tax obligations will always be related to reluctance to pay taxes" [Gomułowicz, Mączyński 2016, p. 375]. Even the definition of tax contained in the Tax Code indicates one of its most important features - coercion [Journal of Laws of 2018, item 800, as amended]. This means that there is a relationship of subordination between the entity obliged to pay the tax and the entity that has the authority to impose it. Rousseau pointed out that the word "tax is a slave word", therefore, the necessity of its payment arouses resistance, and when it becomes nuisance, it even leads to tax fraud [Kosikowski 2007, p. 251]. This resistance occurs even when the taxpayer is aware of the need to pay taxes.

Taxpayers make their own analysis and decide whether and to what extent to avoid taxes by deliberately lowering tax liabilities. They do so, considering the risk of control, as well as the possibilities that arise from a possible escape from the payment of tax. There are different types of tax evasion, from the least harmful to the most serious. The least harmful way to avoid taxation is to use programmes and schemes according to their purpose, under the applicable law. Tax abuse is another way to escape taxation. It also involves the use of schemes based on legal provisions, however, this use is inconsistent with these provisions. Tax evasion is a criminal attempt to avoid payment of tax by concealing or altering the facts. The most serious way is tax fraud understood as criminal attempts using extensive structures to avoid payment of tax or illegal tax refund [Klonowska 2017, p. 17].

The phenomenon of tax avoidance is influenced by both economic and psychological conditions. These factors are interdependent because taxation meets the psychological limit, where it comes to the fact that due to the excessive tax burden, budget revenues are not realized in the intended amount [Gomułowicz 2001, p. 82]. The actions taken by the taxpayer to avoid tax, used in private life, are generally considered unfair. If, however, they apply to the state, they do not raise so many ethical objections. The failure to punish taxes imposes on punishment [The failure to pay taxes results in penalties,] but does not burden the conscience [Gomułowicz, Mączyński 2016, p. 361]. Undoubtedly, tax avoidance is also affected by the provisions regarding possible liability and the possibility of detecting perpetrators of such acts.

Already the Gospel of Matthew contains a very interesting passage about the need to pay taxes. Disciples asked Jesus if they should pay tax to the emperor or not. And he, watching the denarius containing the image and the imperial inscription, answered that they should render to the Caesar what is Caesar's, and to God, what is God's [The Bible, Matthew 12:12-17]. According to A. Gomułowicz, the described scene presents the tax order of conscientiousness passed on by Jesus to his disciples [2010, p. 99]. It also displays that paying taxes is not only a strictly fiscal issue but also an ethical and moral problem. Individual attitudes of taxpayers (tax morality) towards taxation are shaped in the evolutionary process taking place within the framework of specific social, economic and systemic conditions. In addition, they are conditioned by cultural tradition (tax mentality). Tax mentality means an attitude towards taxes represented by a social group that the taxpayer identifies with and belongs to [Schmölders 1932]. There is a model of variables shaping the attitudes of taxpayers towards taxation of income, which assumes that the behaviour of the taxpayer depends largely on the social group to which they belong. This is due to the fact that the awareness of perception of people committing the crime or fiscal offenses has a social character because some views or behaviours are disseminated within a given community [Sztopmka 2002, p. 295]. A taxpayer who has made a profit and loss analysis, considering social premises, can get approval in a group that recognizes tax evasion as a sign of cunning and resourcefulness [Leoński 2013, p. 159]. Thus, tax mentality is an area of social awareness that reflects the attitude towards civic duty, which is the payment of taxes [Pasternak-Malicka 2013, p. 89]. Social awareness is one of the factors that are crucial in the process of creating the law. In addition, it is one of the main conditions for the effectiveness of the law [Borucka-Arctowa 1980, p. 153]. In turn, tax morality can be understood as an internal acceptance of

a tax obligation or its absence, as well as an assessment of attitudes towards compliance with or evasion of tax obligations [Gomułowicz, Mączyński 2016, p. 370]. Morality, including tax morality, affects conscience, and thus goes deeper than the constituted law, which deals with the outside of the proceedings [Ziembiński 1980, p. 3]. This means, therefore, that if taxpayers are obliged to pay tax, they see a moral aspect in a correct manner and will pay tax liabilities.

As previously indicated, taxpayers are looking for loopholes that avoid tax payment. The dishonest ones also use the weaknesses of the state apparatus or new technological solutions. The emergence of the first cryptocurrency - Bitcoin in 2009 undoubtedly caused much confusion on the financial market. Cryptocurrencies should be understood as relations of nodes created in the peer to peer network, which is assigned to the users' portfolios [Kozłowska 2018, pp. 29-33]. By assumption, the functioning of cryptocurrencies, otherwise known as virtual, cryptographic or electronic currencies, was to be deprived of any administrative control, independent of central banks, and the course was to be shaped on the basis of market mechanisms. Cryptography was to be used to control emissions and trade in virtual currencies. The process of creating the value of the portfolios of users of most cryptocurrencies is based on an encrypted electronic accounting system while storing data about the status of virtual coins held. Although virtual currencies are not generally accepted as payment means, they are treated as money by many network users. This is due to the fact that they fulfil the payment function as a rule. They are also a medium of exchange and a measure of value. In addition, they fulfil the function of value retention and risk transfer to a greater extent than money [Dąbrowska 2017, p. 55]. What is more, cryptocurrencies can be traded and invested by multiplying assets method. Exchange of cryptocurrencies takes place mainly through the use of cryptocurrencies. These exchanges are digital platforms that allow, by publishing users' offers, exchange of virtual currencies into fiat money or other virtual currencies.

Both the Act on Corporate Income Tax [Journal of Laws of 2018, item 1036, as amended] and the Act on Personal Income Tax [Journal of Laws of 2018, item 1509, as amended] refer to the understanding of the concept of virtual currency contained in the Act on Prevention of Money Laundering and Terrorist Financing [Journal of Laws of 2018, item 723, as amended]. According to the definition included in this Act, virtual currency means the digital representation of exchangeable values in the course of trade on legal means of payment, accepted as a medium of exchange, which can be electronically stored or transferred or can be a subject to electronic commerce that is not:

- legal tender issued by the National Bank of Poland, foreign central banks or other public administration authorities,
- an international settlement unit established by an international organization and accepted by individual countries belonging to or co-operating with that organization,
- electronic money within the meaning of the Act of 19 August 2011 on Payment Services,
- a financial instrument within the meaning of the Act of July 29, 2005, on Trading in Financial Instruments,
- a bill of exchange or a check [Journal of Laws of 2018, item 723, as amended, Article 2, paragraph 2, point 26].

Until 1st January 2019, there was no clear regulation in the Polish legal system regarding the taxation of income derived from cryptocurrencies. Taxpayers, bearing in mind the guidelines included in the interpretations issued by tax authorities, as well as the case law of administrative courts and the doctrine, settled on general terms, treating income from cryptocurrencies as income from the source of revenues from copyright and other rights referred to in Article 18 of the Act on Personal Income Tax [Journal of Laws of 2018, item 1509, as amended]

It should be noted that as of January 1st, 2019, the act implementing provisions regulating the taxation of income from trading in virtual currencies entered into force. According to the newly introduced regulation, income generated by taxpayers who sell virtual currencies for a fee is taxed at a 19% tax rate. In accordance with Article 22d of the Act on Corporate Income Tax [Journal of Laws of 2018, item 1036, as amended] revenue from the disposal of virtual currencies is: the difference achieved in the tax year between the sum of revenues from virtual currency exchange into the payment instrument, commodity, service or property law other than the virtual currency or from settling other liabilities with virtual currency and the costs of obtaining this income. Similar regulation can also be found in Article 30b paragraph 1 and 2 and Article 17 sec. 1f of the Act on Personal Income Tax. The costs of obtaining revenues from the paid disposal of a virtual currency are documented expenses directly incurred for the

acquisition of a virtual currency and costs related to the sale of a virtual currency, including documented expenses incurred for entities referred to in Article 2 paragraph 1 point 12 of the Act on Prevention of Money Laundering and Terrorist Financing [Journal of Laws of 2018, item 723, as amended].

It should also be clarified that a taxpayer who obtains income from the sale of virtual currencies is obliged to demonstrate the income generated in a given tax year from virtual currency trading in an annual tax declaration "PIT-38" or "CIT-8" and to pay the calculated tax amount without asking the authority. What is important, the income from the paid disposal of virtual currencies is not combined with other income (revenues) achieved by the taxpayer.

Until recently, trading in cryptocurrencies, in particular, bitcoin, was considered almost anonymous [www.cyfrowa.rp.pl/technologie/blockchain/11098-kryptowaluty-to-aktywa-przyszlosci-czy-zabawka-spekulantow (access 23.04.2019)]. Currently, however, due to changes in the European Union law and, consequently, also changes in the Polish law, the anonymity of trading in cryptocurrencies is very limited. The first act in the Polish law whose regulations directly affected virtual currencies, including cryptocurrency, was the Act on Prevention of Money Laundering and Terrorism Financing [Journal of Laws of 2018, item 723, as amended]. The act indicated that the so-called obligated institutions have numerous duties related to disclosing entities with whom transactions are made [www.rp.pl/Prawo-karne/304159914-Kryptowaluty-jako-przedmiot-regulacji.html (access 20.04.2019)]. The catalogue of obligated institutions includes entities conducting business activity included in the provision of services in the scope of:

1. exchanges between virtual currencies and means of payment,
2. exchanges between virtual currencies,
3. brokering services referred to in point 1. or 2. or
4. keeping accounts understood as an electronic collection of identification data providing authorized persons with the possibility of using virtual currency units, including transactions to exchange them [www.orka.sejm.gov.pl/Druki8ka.nsf/0/BF302BA32C809CC6C125822B00508505/%24File/2233-uzas.docx (access 25.04.2019)].

The purpose of the introduced act was to counteract introducing legal means of payment of illicit sources into the legal circulation [www.biznes.gazetaprawna.pl/artykuly/1099679,anonimowosc-na-gieldach kryptowalut.html. (access 23.04.2019)].

At this point, it should be noted that most cryptocurrencies are pseudonymous systems. Because they ensure the transparency of transactions, but they do not allow linking a specific person to a specific financial operation. Currently, transactions based, for example, on Bitcoin - one of the most popular cryptocurrencies - are not fully anonymous, as there are methods to effectively track a person who trades bitcoins, for example by means of tracking cookies or using heuristic analysis [www.cseweb.ucsd.edu/~smeiklejohn/files/imc13.pdf (access 30.03.2019)]. Nevertheless, in the case of a part of virtual currencies, when an effort is made, a specific entity may be able to trade in a cryptocurrency in such a way that it will be very difficult to link virtual funds to a person. [www.kryptoportal.pl/poradniki/localbitcoins-com-czyli-anonimowa-sprzedaz-kupno-kryptowalut-pominieciem-gield/?fbclid=IwAR0dEiPXHHnigYRYVeBtEkIe3rdm9VfvsJZ3F8SWi8Rmquim-nhcniml-D4, (access 28.03.2019)]. As a result of legal changes, the process of limiting anonymity in the course of virtual currencies is progressing. More and more exchanges of virtual currencies require the verification of the buyer's data. However, this does not change the fact that there are still such exchanges which do not require such verification.

Despite the indicated legal changes aiming at increasing the transparency of trade in cryptocurrencies, there are still many factors that make taxpayers decide not to tax income derived from the paid disposal of virtual currencies. One of the factors conducive to maintain anonymity is the ability to share investment portfolios and the multiplicity of transactions. The above makes it difficult to identify the entity that rotates cryptocurrencies. At this point, it should be noted that the indicated number of transactions is primarily due to the specificity of trading in cryptocurrencies. The lack of central authorities managing cryptocurrencies also favours anonymity. Another factor hindering the identification of entities trading virtual currencies is the possibility of selling cryptocurrencies without having bank accounts. This is possible, for example, with the help of specially designed devices - bitomats. With bitomats, it is possible to exchange bitcoins directly into cash. In practice, on a display of a bitomat appears QR CODE which should be scanned and which sends bitcoins to the given address. Then we receive the transaction number, and at the same time, a bar code is printed allowing for later payment. Next, we need to wait for the

confirmation from the network and scan the bar code or enter the transaction number manually. The last step is to collect cash and to confirm the transaction. Exchange of a virtual currency directly into cash, excluding a bank account, also allows, for example, LocalBitcoins start-up, whose aim is to facilitate anonymous virtual currency trading by residents of a given region or country in which it operates. The exchange of virtual currency for cash takes place directly to the hands of the persons exchanging it [www.kryptoportal.pl/poradniki/localbitcoins-com-czyli-anonimowa-sprzedaz-kupno-kryptowalut-pominieciem-giel d/?fbclid=IwAR0dEiPXHHnigYRYVeBtEkIe3rdm9VfvsJZ3F8SWi8Rmquim-nhcniml-D4, (access 28.03.2019)].

All these factors make it difficult to detect and reach such transactions by competent tax authorities. Hence, some taxpayers, in the hope of avoiding the need to pay tax, do not show income derived from cryptocurrencies in a tax declaration. It is said that it is not the severity of the punishment that deters offenders, but the detection of crimes. It can be similar in the case of trading in kleptocats. As long as there are ways to even partially anonymous trading in cryptocurrencies, taxpayers will take measures to avoid taxation. Both the EU and Polish legislators introduce a number of solutions to reduce the phenomenon of tax avoidance. One of such methods is, for example, setting limits on daily payments made using bitomats, or the need to authorize transactions with a fingerprint. However, given the high level of technological development of cryptocurrencies and the lack of exposure to the problem by many authorities, this may take some time.

Of course, all the aforementioned factors facilitating the taxpayer's concealment of the income obtained from the sale of cryptocurrencies will not be relevant if the taxpayer purchases significantly in excess of their declared income. Then, tax authorities may initiate proceedings regarding income from undisclosed sources of income. However, in a situation when a taxpayer does not make purchases that exceed their declared financial capacities, or if no "benevolent" taxpayer will facilitate the tax authorities' work and reports on a taxpayer's income not covered by disclosed sources or income from undisclosed sources, tax authorities have very difficult tasks.

Incidentally, it should be mentioned that in addition to the abovementioned factors to honestly account for revenues generated by cryptocurrencies there are also such problems which do not encourage taxpayers. In the case of business activity, losses incurred from cryptocurrencies cannot be offset by revenues from other activities. Also, costs incurred in connection with cryptocurrencies will have to be separated from other costs.

In addition, income obtained from cryptocurrencies will be included in the so-called tribute to solidarity, i.e. if the income from the sale of cryptocurrencies exceeds PLN 1 million, then a taxpayer will have to pay an additional 4% on the obtained income.

Conclusion

Due to the fact that until 1st January 2019 there had not been regulations governing the taxation of income from virtual currencies, taxpayers had many doubts as to the correct taxation of such income. Trading in virtual currencies is still largely anonymous, as tax authorities have basically no tools to detect it. What is more, taxpayers are by nature not willing to pay taxes. The above circumstances result in the fact that taxpayers undertake activities aimed at avoiding the taxation of income obtained on this account, which in turn leads to the depletion of tax liabilities. It is also worth noting that the tax office cannot ascertain what the real scale of such an action is. A dishonest taxpayer may avoid fiscal penal liability up to the point where they reveal themselves, for example through reckless shopping, which, given their official income, they cannot afford, or if someone "benevolent" facilitates the matter and reports the improved taxpayer's financial situation, which is not covered by the disclosed sources of income.

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CRYPTOCURRENCIES AS A GENERIC OBJECT OF CRIME IN POLISH CRIMINAL LAW

Abstract

The presented study is devoted to the possibility of recognizing cryptocurrencies as the object of an offense under Polish criminal law. The Author of the study firstly explained what the object of the crime is under Polish criminal law. Then - focused on the issues of defining cryptocurrencies in the criminal law doctrine, as well as in legal acts that apply to the issue of virtual currency. The study also contains considerations regarding the possibility of including crypto-currencies in the generic object of crimes penalized in particular chapters of the Polish Penal Code of 1997. The aim of the study is not to identify specific crimes whose cryptocurrencies may be the subject, but to show the issues related to determining what cryptocurrencies are and with which types of crimes they may be related to, as well as emphasizing the problem of the lack of definition of cryptocurrencies in Polish criminal law and the consequences of this lack for the possibility of proper application of the provisions with regard to cryptocurrencies. Several solutions to the abovementioned problems have also been proposed.

Keywords: cryptocurrencies, generic object of crime, virtual currency

Introduction

The concept on the functioning of cryptocurrencies in general was first introduced to the world in the document called Manifesto [Nakamoto 2009, pp. 1-3], according to which: "A full-fledged version of electronic money based on a peer-to-peer network communication model would allow sending online payments directly from one entity to another without the need for transaction flow by financial institutions". For both doctrine and case law, the question of the definition of a virtual currency is extremely important.

The references in which the concept of cryptocurrencies is mentioned can be found in the European Parliament's Resolution of 26 May 2016 on virtual currencies. This act treats cryptocurrencies as a form of "digital cash". It describes the meaning of cryptocurrencies as digital determinants of values that are not related to fiduciary currency and are accepted by entities that use them as a means of payment. In the mentioned Resolution, it was also noted that cryptocurrencies may be transferred, sold or stored electronically.

A slightly older definition of virtual currency can also be found in the publication from 2015 titled "Virtual Currency Schemes - and further analysis". The author of the publication is the European Central Bank. In this publication, virtual currency is understood as a digital representation of a value not issued by a central bank, credit institution or electronic money institution, which may, in certain circumstances, be used as an alternative to money.

This study aims to get answers to two extensive questions. First of all, what is the state of defining the concept of cryptocurrencies on the basis of legal acts and the doctrine of Polish criminal law? Secondly, can cryptocurrencies be a generic object of crime in Polish criminal law, and if so, what types of crime are they the subject of?

The object of crime in Polish criminal law

This part of considerations should start with explaining the fundamental issue - what is the object of the crime according to Polish law and what are its types. The object of crime is a legal good subject to simultaneous protection by criminal provisions (the so-called subject of protection), as well as an attack by the perpetrator of the coup (the so-called subject of the coup). In the case of the subject of protection, the protective function of the criminal law provision is emphasized. In the case of the object of the coup, the offender or the threat of legal good from the perpetrator is emphasized [Błaszczyk, Zientara 2015, p. 45].

L. Gardocki [2019, pp. 90-93] distinguishes the following meanings of the subject of the offense: general (all values subject to legal protection), as a generic subject (value subject to protection under certain sets of regulations (determines the taxonomy of the special part of criminal law), as a direct (value subject to protection under a specific provision of the Act).

Contemporary science of criminal law, despite constant attempts in this direction, failed to create one definition, as transparent as the definition of legal good, and thus reach agreement as to its actual usefulness, as a determinant of the content and limits of lawful regulations [Gruszecka 2008, pp. 140-143]. A legal good is a term used in jurisprudence signifying material or non-material good, which is positively socially valued and therefore protected by law. The legal goods will be, among others: objects (e.g. public buildings, infrastructure serving a local community or at least a part of it), values (e.g. freedom, which is one of the highest esteemed values in the Western civilization), ideas (e.g. idea of a democratic state of law that is guaranteed in many countries by their highest rights (constitutions, statutes)) and social relations (e,g. patriarchalism) [Gardocki 2019, pp. 90-93].

The correct definition of the subject of protection of a prohibited act is important for the interpretation of the signs of a given offense. There is no criminal provision that has not been established to protect the legal good [Tyburcy 2017, pp. 93-95].

Legal goods are non-criminal references in criminal law, the protection of which justifies state interventions (in the form of public law norms and the state apparatus that enforce it) in social relations. At the same time, legal goods perform a delimiting function (delimiting the border) of state interference [Citowicz 2006, p.19]. Therefore, it results from the fact that the state may interfere, in the form of criminal laws, only in places where legal goods are in danger.

The legal definition of cryptocurrencies in Polish criminal law

According to G. Sobiecki [2015, pp. 155-157], although Bitcoin (and other cryptocurrencies) is a category unprecedented, it seems that the existing Polish law is largely prepared for the adoption of this new phenomenon. At the beginning of this part of considerations, it should be noted, however, that the Polish legislator quite recently decided to define what virtual currencies are. Such a definition can be found in article 2 point 26 of the Act on Counteracting Money Laundering and Terrorist Financing of 1 March 2018 (this act came into force on 13 July 2018). This definition is structured in an interesting way.

In the first place, cryptocurrencies are defined there as a digital representation of values. Then, in this definition, it is mentioned in the points that this "mapping of values" is not. At the end of the definition, it is indicated that the virtual currency is dealt with when this "mapping of values", which is not one of the enumerations mentioned in the definition of things - is exchangeable in the course of trade for legal means of payment and accepted as a medium of exchange, and it can also be electronically stored or transferred or it can be subject to e-commerce. However, it should be emphasized that the virtual currency on the basis of the aforementioned Act is not:

- legal tender issued by the NBP, foreign central banks or other public administration bodies,
- an international settlement unit established by an international organization and accepted by individual countries belonging to or co-operating with this organization,
- electronic money within the meaning of the Act of 19 August 2011 on Payment Services [article 2-point 10a],
- a financial instrument within the meaning of the Act of 29 July 2005 on Trading in Financial Instruments [article 2 paragraph 1],
- bill of exchange or check.

The Polish legislator here decided to introduce a rather extensive and interesting in construction definition of the virtual currency. However, it should be noted that the abovementioned legal definition can be found in the text of a specific act and this act only. It was not placed by

the legislator in other criminal law acts, and in particular there is no such definition in article 115 of the currently binding Penal Code of 1997.

The following conclusion results from the above considerations - the existing definition of virtual currencies is a legal definition. The legal definition is in the case when the legislator gives a specific meaning to the words or their groups used in a given normative act. They apply in the interpretation of this act before other definitions. However, they do not gain widespread significance and are subject to general rules of assessment outside the scope of a given normative act [Smoktunowicz 2005, p. 120]. Therefore, when analyzing the provisions of the particular Penal Code with reference to cryptocurrencies as a possible genetic item of crimes, it should be stated that there is a significant interpretation problem due to the lack of such definition.

Despite this, we can also at least partially answer, at this stage, one of the questions asked in the introduction. Cryptocurrencies can certainly become the object of an offense under Polish criminal law. Literally, they have been listed and defined in the Act on Counteracting Money Laundering and Terrorism Financing. The question then remains whether this is the only crime in the Polish criminal law, which cryptocurrencies may be the object of. Looking literally, it would seem that yes, since no other statute penalizing forbidden acts mentions crypts in the description of particular crimes. However, it would also be an exaggerated simplification of legal reality.

Cryptocurrencies in the definitions of the doctrine of Polish criminal law

It is obvious that when interpreting legal norms, doctrine and judisprudence try to overcome any definitional gaps, and so the doctrinal definitions of cryptocurrencies exist in legal reality as much as possible.

According to M. Kusaj [2016, p. 4], cryptocurrency is a modern electronic means of payment that uses cryptography to secure transactions and create new units. Its popularity is increasing day by day, and trading on digital currency exchanges is about 25 million dollars per day. This author also indicates the basic differences between cryptocurrencies and traditional currencies, such as: lack of a central issuer, the fact that cryptocurrencies are "extracted" and arise as a result of network activity using a mathematical script based on the so-called proof of performed activities or anonymity of transactions made with the help of cryptocurrency. No one except the owner has access to such transactions. The lack of central administration is also characteristic there [www.mfiles.pl/pl/index.php/Kryptowaluta (access 25.03.2019)].

Cryptocurrencies are also defined as contractual units of participation in a distributed accounting system based on cryptography which "without a centralized issuer or an institution controlling their turnover and independent consumer value constitute a contractual measure between parties to a given legal relationship of liabilities of such value as they are ready to give entities accepting the possibility of cessation of liabilities by cryptocurrencies. Thus, the only function of cryptocurrencies is the function of a conventional medium for the exchange of monetary value" [Judgment of TS of 22/10/2015, C-264/14, Legalis].

As G. Sobiecki argues [2015, p. 156], it is not necessary to define a new crime specific to bitcoins. Although it cannot be classified as a crime against trading in money and securities, unlawful acts relating to bitcoin fall into the group of crimes against property. However, J. Czarnecki [2015, pp. 144-163], draws attention to the imbalance between the protection of traditional money user and bitcoin user protection, since bitcoins are often used in a similar economic function as traditional money and are a carrier of value.

Cryptocurrencies as a generic object of offenses from the special part of the Penal Code of 6 June 1997

At the outset of this part of the article, it should be noted again that the Polish Penal Code of 1997 lacks the legal definition of cryptocurrency. However, due to definitions given in the doctrine, it is worth considering which types of crimes cryptocurrencies may become. Considering the foregoing considerations, it is undisputed that cryptocurrencies may become the subject of an offense under Polish criminal law.

The current Penal Code of 1997 distinguishes the following types of crimes:

- crimes against peace, humanity and war crimes (Chapter XVI),
- crimes against the Republic of Poland (Chapter XVII),
- crimes against defense (Chapter XVIII),
- crimes against life and health (Chapter XIX),
- crimes against general security (Chapter XX),

- crimes against communication security (Chapter XXI),
- environmental crime (Chapter XXII),
- crimes against freedom (Chapter XXIII),
- crimes against the freedom of conscience and religion (Chapter XXIV),
- crimes against sexual freedom and decency (Chapter XXV),
- crimes against family and care (Chapter XXVI),
- crimes against honor and physical integrity (Chapter XXVII),
- crimes against the rights of persons engaged in gainful employment (Chapter XXVIII),
- offenses against the activities of state institutions and local self-government (Chapter XXIX),
- crimes against the administration of justice (Chapter XXX),
- crimes against elections and a referendum (Chapter XXXI),
- crimes against public order (Chapter XXXII),
- crimes against protection of information (Chapter XXXIII),
- **offenses against the credibility of documents (Chapter XXXIV),**
- **crimes against property (Chapter XXXV),**
- crimes against economic turnover (Chapter XXXVI),
- **crimes against trading in money and securities (Chapter XXXVII).**

First of all, it should be noted that the *cursory* analysis of the titles of individual chapters of the Special Part of the Penal Code of 1997 allows the elimination of those groups of crimes in which cryptocurrencies can certainly not be subject to protection or assault. I am talking here primarily about crimes against life and health, family and care, or crimes against defense or security in communication, elections and referendum or justice.

In the above list of types of crimes penalized in the currently valid Penal Code, regular font indicates the types of crimes, for which it can undoubtedly be concluded that cryptocurrencies are not their subject. The font in bold shows the types of crimes which, in the opinion of the Author of this study, raise the most doubts in the doctrine. Therefore, the issues related to these crimes are discussed below. Due to the need to maintain the appropriate size of this study - the issues are discussed in the most condensed form considering the most important issues.

Cryptocurrencies as a generic object of crimes against the credibility of documents

In this thread of considerations, reference should be made to the legal definition of a document contained in article 115 § 14 of the Polish Penal Code. It states that a document is any object or other recorded medium of information with which a certain right is associated, or which, because of the content included therein, is evidence of law, legal relationship or circumstances having legal significance.

The basic seems to be the statement that cryptocurrencies are not objects because of their immaterial and intangible size. As J. Liberadzki rightly pointed out [2018, p. 11]: "Bitcoin cannot be regarded as a carrier of information, because Bitcoin is information itself". This statement can therefore be applied to cryptocurrencies in general and on this basis the only possible conclusion can be drawn that cryptocurrencies are not documents pursuant to the Penal Code. Thus, it should be concluded that cryptocurrencies cannot be a generic object of crimes against the credibility of documents.

According to P. Opitek [2017, pp. 47-48], however, in the case of contact with a data carrier containing a record of digital values concerning cryptocurrency - this carrier could in turn be considered as a document according to the above mentioned legal definition.

Cryptocurrencies as a generic object of crimes against trading in money and securities

In this part of considerations, the starting point should be to present the definition of money and security in order to verify whether they coincide with the definition of the concept of cryptocurrencies.

It is true that the Penal Code in Article 115 does not provide the legal definition of money. This may result from the difficulty of formulating its unambiguous definition due to the complexity of this concept, both in legal and economic terms [Nowak-Far 2011, p. 33]. Money, however, is undoubtedly the means by which all kinds of transactions can be made. And so, the means of payment. Economists distinguish at least three basic functions of money: the means of circulation, the means of thesaurisation and the measure of value [https://www.nbportal.

pl/wiedza/artykuly/pieniadz/pieniadz-i-jego-znaczenia (access 01.04.2019)].

According to A. Marek [2010, pp. 660-661] under the Polish Penal Code money should be understood as money (banknotes, coins) in the legal tender and withdrawn from circulation, but subject to exchange. Money is also foreign currency, electronic money and non-cash money.

On the basis of definitional considerations on the subject of cryptocurrencies, it should also be noted that the notion of electronic money and virtual money must not be equated [Chrabonszczewska 2013, p. 56]. Electronic money, according to the EU Directive of 2009, is a "monetary value representing in accordance with the intention of the issuer: the possibility of electronic storage, issued on the basis of the inflow of funds in an amount not less than the value of the currency issued and accepted as a means of payment by entities other than the issuer "[Art. 2 point 2 of Directive 2009/110 / EC of the European Parliament and of the Council of 16 September 2009 on the taking up and pursuit of electronic money institutions and prudential supervision over their activities, amending Directives 2005/60 / EC and 2006/48 / EC and repealing Directive 2000/46 / EC]. The basic differences are presented in Table 1.

Tab. 1. Electronic money and virtual money

Specification	Electronic money	Virtual money
Form of money	digital	digital
Value measure	traditional currency with a legal status (euro, dollar, pound)	new currencies (BTC, Linden Dollar) without legal status
Acceptance	by other entities that the issuer	usually through virtual community
Legal status	regulated	unregulated
Issuer	legally established financial electronic institution	non-financial private company
Money supply	specified	it is not fixed (depends on the decision of issuers)
The opportunity to buy back funds	guaranteed	non-guaranteed
Supervision	yes	no
Type of risk	mainly operational	legal, credit and liquidity and operational

Source: Virtual Currency Schemes, European Central Bank. Eurosystem [online], www.ecb.europa.eu/pub/pdf/other/virtualcurrencyschemesen.pdf, access as of 25 March 2019.

It distinguishes cryptocurrencies from the traditional currency mainly due to the lack of a central issuer and a body supervising the course of this "currency". In the network of users of the network, virtual currencies are treated as money, because they basically meet all its features. First of all, they fulfill the payment function. In addition, they are a means of exchange and a measure of value, and to a much greater extent than money - a function of storing value and transferring risk [Gruszecki 2004, p. 70 and Dąbrowska 2017, pp. 54-55].

In turn, a valuable document is a document with which a property right is related so closely that its implementation can only take place by presenting or issuing this document. The essence of a security is marketability. Thanks to the direct connection of property law with the document, the transfer of the right takes place with the transfer of paper [https://www.nbportal.pl/wiedza/artykuly/na-poczatek/papiery_warosciowe (access 01.04.2019)]. The most common types of securities are shares, bonds and promissory notes. However, as already indicated above, cryptocurrencies are not themselves documents, so they are not securities.

However, it is worth recalling the verdict of the Supreme Administrative Court of March 6, 2018 [II FSK 488/16] referring to considerations regarding the understanding of bitcoin (and, more broadly, cryptocurrencies in general) as money. In the justification the Supreme Administrative Court stated: "pursuant to art. 227 par. 1 of the Constitution of the Republic of Poland the exclusive right to issue money is vested in the National Bank of Poland. In turn, art. 31 and art. 32 of the Act on the NBP stipulates that the Polish banknotes are banknotes and coins for zlotys and pennies. In contrast, payment marks issued by the NBP are legal means of payment in the territory of the Republic

of Poland. There is no doubt that the central bank, which is the NBP in the Republic of Poland, has a statutory monopoly on money issuance. Bitcoin also does not meet the conditions to be considered electronic money within the meaning of the Payment Services Act. Bitcoin is therefore not a common form of money, as it is not entitled to legal tender in the light of the current legal order. The legislator does not send the right to release everyone, and therefore 'erga omnes', from any obligations. Thus, a cryptocurrency may be a measure of value other than money, a means of accumulation and savings, or a means of circulation or payment".

Cryptocurrencies as a generic object of crimes against property

In the Penal Code of 1997, there is no definition of a legal concept of property, which is the object of protection in the case of crimes punishable in Chapter XXXV of the same Code. Property defined as property and other property rights is based on the Polish Civil Code (Article 44). The Penal Code operates with the concept of 'property of great and substantial value'. In the case of certain torts committed on such property, the punishment is tightened (Articles 115 § 5 and 6). Therefore, it should be stated that in the case of crimes against property, the legislator seeks to protect the possession and, above all, ownership of property and other property rights. Thus, in order to be able to determine whether cryptocurrencies may be the object of this group of crimes, an attempt should be made to determine whether cryptocurrencies can be considered as a property or property right.

It should be noted here, of course, that the possible fact of finding that cryptocurrencies may be subject to offenses against property can absolutely not be regarded as tantamount to stating that cryptocurrencies may be subject to any crime of this kind. Only an in-depth analysis of the features of a given offense leads to the conclusion that a law that penalizes certain behavior is or is not applicable to acts committed in the virtual world [Jagiełło 2014, p. 86] in connection with cryptocurrencies. Therefore, it is necessary to make the analysis with particular diligence [Czaplicki 2017, p. 42]. The solution could be to extend the scope of the regulations. However, it is primarily the will of the legislator that would involve a possible amendment of a given regulation.

The concept of things is defined in Article 115 § 9 of the Penal Code. A movable or subject-matter under this provision is also Polish or foreign currency or other means of payment, a cash credited to the invoice and a document entitling to receive a sum of money or including an obligation to pay principal, interest, share in profits or declare participation in the company.

Cryptograms, as it was mentioned earlier in this study, are indicated as part of cyberspace and have no material form that, for example, could be touched. Also, in the earlier part of the study, definitional problems appearing in the case of determining whether cryptocurrencies can be treated as money or documents have already been indicated. Inasmuch as in the case of documents it can be stated that cryptocurrencies are not documents themselves, the matter of understanding them as a means of payment, money or a measure of values raises controversies both in doctrine and jurisprudence and remains a contentious issue [Liberadzki 2018, pp. 11-12].

However, it is worth recalling the verdict of the Supreme Administrative Court of 6th March 2018 [II FSK 488/16] referring to considerations regarding the understanding of bitcoin (and, more broadly, cryptocurrency in general) as property rights. In the justification of the verdict, the Supreme Administrative Court stated the following: "In the practice of civil law relations, bitcoin is a type of property within the meaning of art. 45 Civil Code.". Thus, it leads to the conclusion that cryptocurrencies may be an element of property, and thus could be the object of some crimes under Section XXXV of the Penal Code of 1997.

Conclusions

The issue of cryptocurrencies as an object of crime is extremely complicated. The Author of this paper, while working on it, faced many difficulties related to the systematization of doctrinal positions regarding the understanding and definition of cryptocurrencies. Due to the requirement to maintain an appropriate volume of the study, many detailed issues have not been fully discussed.

Observing the number of positions of the representatives of the doctrine, analyzing the jurisprudence and arguments of practitioners and theoreticians of law - the first conclusion seems to be that such a situation should not continue. Of course, it is not easy for legislators - not only Polish but also legislators from other countries - to incorporate the rapidly changing world and technologies that are speeding ahead into the legal framework. This does not mean that due to the difficulties, the problem should

be left with the quiet hope that the doctrine will manage it one day.

According to the Author of this study, it is worth considering an attempt to statutorily define cryptocurrency. The Author of the study has several ideas for solving this situation. First of all - to create a definition of cryptocurrencies, which would not stand only for the purposes of a specific law, but a definition of a codex rank, to which other criminal laws would refer through the provisions contained there. The Author here means the introduction of a legal definition of cryptocurrency to the content of Article 115 of the Penal Code of 1997.

Another solution could be to create a separate act regulating the definition of cryptocurrencies and other issues related to them, which would constitute a 'lex specialis' in relation to other laws (including the definition of cryptocurrencies). The last solution, which the Author of this paper still sees, could be the change of a part of the regulations in the Special Part of the 1997 Penal Code, namely the introduction of a literal record that in the case of a given offense may also involve cryptocurrencies.

The use of the proposed solutions would certainly result in reducing doubts regarding the issue under discussion. The Author of this study is aware of the difficulties associated with the definition of cryptocurrencies, their multitude and the difficulty of creating a unified exact definition, but is also convinced that even a more general definition would already improve the interpretation of the phenomenon.

The best solution in the opinion of the Author of the study would be the last of the presented solutions, although it could be considered as an ad hoc operation, "treatment of symptoms". The most difficult solution, according to the Author, would be to take the second solution - to create a comprehensive act on cryptocurrencies, but it would undoubtedly be the best solution in the long run.

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EFFECTIVE DEVELOPMENT PROCESS OF THE STATE FINANCIAL CONTROL IN RUSSIA

Abstract

The subject of the research is the development process of the state financial control in Russia. The research methodology consisted of a legalistic, analytical methods and a systematic approach.

Keywords: state financial control, standards of internal state financial control, interbudgetary transfers, budgetary coercive measures, amounts of illegally used budget funds

Introduction

The article examines the main and most current trends in the development of the state financial control in the Russian Federation. The main trend is aimed at tightening the state financial control, with the purpose of strengthening financial and budget discipline, and consequently, improving public finances management.

Main part

Let us consider the main trends in the state financial control development in Russia.

It is proposed to expand the scope of state financial control, namely, to empower state financial control bodies with powers to control the compliance with the provisions of the laws (acts) defining the expenditure obligations of the relevant public law entities, i.e.:

To detail the objects of control, i.e., to give the bodies of external and internal financial control additional powers to effectuate control of budget funds recipients. For example, the Accounts Chamber of the Russian Federation and the Federal Treasury will control subjects of the Russian Federation in the case of interbudgetary transfers, budget credits, other funds provided from the federal budget to the budgets of the subjects, as well as municipalities, in the case of interbudgetary transfers to subjects from the federal budget in order to co-finance the expenditure commitments of the region for providing interbudgetary transfers to the municipalities.

To create effective federal standards system of internal state financial control.

The Russian government will be empowered to approve federal standards of internal state financial control. The creation of federal standards system is aimed at consolidating uniform principles and grounds for exercising control activities, as well as the procedure for pretrial appeal of control bodies acts, internal quality control of state financial control, extension of the period for executing warnings and orders.

In turn, the specifics of the control activities implementation of a specific internal state financial control body

will be approved by the authorized organ of the relevant public law entity.

The Russian Ministry of Finance approved by its Order of 03.10.2018 N 203n the first standard of internal state financial control - the Standard for implementation of the internal state financial control by the Federal Treasury "Verification of granting subsidies from the federal budget to federal budget and autonomous institutions and (or) their use".

This standard defined the procedure for the formation of a list of major issues to be checked during the verification of subsidies granting from federal budget to federal budgetary and autonomous institutions as well as their use by these institutions, the questions of control implementation of actions during the verification, and also the registration and realization of its results.

The state standards enactment is aimed, among other things, at unifying the regulatory framework of the state financial control system, increasing the control bodies efficiency, introducing risk-oriented approaches in planning their activities and eliminating powers duplication of external and internal state financial control bodies.

The following direction of development is the improvement of implementing procedure of the state financial control results.

This direction will be realized, first of all, through the improvement of applying budgetary coercive measures procedure and formation of warnings and orders issued by the internal state financial control bodies. It should be noted that the application of budgetary coercive measures procedure has already been partially updated. Financial authorities now make decisions not only on the application of budgetary coercive measures or the decision to refuse to apply them, but also decisions on their modification and abolition.

It is proposed to vest the governing bodies of state extra-budgetary funds with the decision-making powers on the application of budgetary coercive measures when using the means of the corresponding state extra-budgetary funds. In turn, it is planned to empower financial bodies with the authority to apply budgetary coercive measures in relation to state extra-budgetary funds, in case of violation by them the spending goals and conditions of inter-budgetary transfers provided to them.

It is necessary to note the fact that the problem of the definition of the concept "damage caused to public law entity" is very acute.

Due to the fact that in the Russian legislation this term is not defined, the approaches to calculating the amount of such damage are not defined, this problem was solved in practice as follows.

The Ministry of Finance of the RF in its official letters indicated that the internal state financial control body may qualify the existence of this damage, and also it noted that the compensation for damage caused by the violation of budget legislation should be made by the person who committed this particular violation. The courts, in turn, in the absence of other explanations and specific legal norms, actively used Ministry's position in law enforcement practice, such as for example - the Third Arbitration Court of Appeals Ordinance N 03АП-1240/15 of 04/08/2015, which in turn contributed to the effective resolution of disputes between control authorities and objects of control. Now this approach is completely modified.

The concept of "damage caused to public law entity" will be replaced by the term "amounts of illegally used budget funds", i.e., in fact, the amount of outstanding work, services, undelivered goods, the amount of overstated payments from the budget. In addition, the Ministry of Finance of the Russian Federation will adopt a methodology for calculating the amounts of illegally used budget funds taking into consideration the peculiarities of different types of violations in the financial and budgetary sphere. Further, as a consequence, the term "order" will be updated, where instead of the words "compensation for damage of the corresponding public law entity", will be established the demand to transfer the "amounts of illegally used budget funds" to the corresponding public law entity budget.

Moreover, the deadline for compliance with the order issued by the internal state financial control body will change, it will be possible to extend it, at the request of the head of the control object, but not more than once.

As regards directly the implementation of the financial verifications, for example, with regard to legal entities that are not participants of the budget process, the Budget Code of the RF plans to fix the possibility of conducting separate inspections of such entities, i.e., regardless of checking the budget process participants who provided them with funds from the budget. This manoeuver will help to increase the state financial control efficiency, due to the increase in labour and material resources, as well as the time for conducting an inspection, since the verification of the above legal entities will not be tied to the verification of budget participants who provided these

entities with funds from the budget, i.e., will be conducted independently.

It should be emphasized that the introduction of new concepts, standards, and a general tightening of the state financial control will further strengthen financial and budgetary discipline and, as a consequence, increase public finance management efficiency.

We note the fact that development is necessary, not only for the state financial control which is conducted by special state financial control bodies, but also for the improvement of internal (departmental) financial control organization process and its interaction with state financial control. The task is to harmonize state financial control and internal (departmental) financial control, so that these types of control will mutually effectively complement each other.

First of all, the bulk of violations should be revealed, precisely within the framework of control measures realizing by internal (departmental) financial control, and state financial control should serve as a kind of a follow-up control. This combination will eliminate duplication of verification on the same issues and periods of activity. As a result, the burden on the Accounts Chamber of the Russian Federation, the Federal Treasury, control and accounting organs and internal state financial control bodies of subjects of the Russian Federation will decrease, and consequently an increase in their personnel potential will follow, which in turn will generally affect the state financial control bodies efficiency.

In the future, in order to reduce the burden on state financial control bodies, it is planned not to indicate in warnings and orders issued by these organs the information on violations of the Russian Federation budget legislation identified by budget process participants during effectuation of departmental control, subject to the availability of measures taken to eliminate them. Accordingly, the bulk of violations will have to be detected inside the state agencies, and materials, in the absence of measures taken to eliminate violations or signs of crime, will be sent to the financial control authorities, law enforcement agencies and the courts, directly, in order to bring the perpetrators to the relevant types of responsibility.

Conclusion

In conclusion, it should be noted that there is a high potential of the identified trends in improving the state financial control system. In order to increase the state financial control effectiveness, a conclusion was drawn that it needs further tightening, improvement of the regulatory framework for its successful implementation, and harmonization with internal (departmental) financial control.

Strict state financial control is the key to the efficient budget spending and as a result to the increase in the level of financial, economic and national security of the Russian Federation. The given position had already been expressed by E.V. Chernikova in her previous works: "National security and economic security as its component are directly related to the process of development, distribution and use of funds ... we can determine financial security as an element of economic and national security notions" [Chernikova 2010, p. 39].

The findings can be used in further research on the state financial control development in Russia.

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RISK MANAGEMENT IN PUBLIC-PRIVATE PARTNERSHIP THROUGH MANAGEMENT CONTROL

Abstract

Division of risk between a public entity and a private partner is one on the most essential elements of public-private partnership. Improper risk allocation may cause difficulties in implementation of a given undertaking or even prevent its realisation. Proper risk management is significant to avoid such a state and management control is a mechanism facilitating it.

The aim of this article is to analyse management control in the scope of risk management in public-private partnership. Therefore, a research problem has been formulated which is to answer the question: is it possible to manage risk in PPP through management control? According to the research hypothesis, management control is an institution which may manage risk in PPP.

The article presents management control as a mechanism managing risk in PPP.

Keywords: risk, public-private partnership, management control

Introduction

Public-private partnership (PPP) is a cooperation of a public entity and a partner, in which the subject of the partnership is a joint implementation of an undertaking based on division of tasks and risk between the public entity and private partner.

This cooperation is aimed at obtaining benefits by both sides. Such partnership allows public bodies to implement public tasks, which are the needs of the society, with the participation of a private partner. Whereas the benefits to the private entities are the profits from the PPP projects.

PPP was introduced into the Polish legal system by the Act of 28 July 2005 on public-private partnership [Journal of Laws No 169, item 1420]. This Act determines the rules and mode of a public entity and a private partner cooperation within PPP. The Act of 19 December 2008 on public-private partnership [Journal of Laws 2009 No 19, item 100] (APPP) introduced changes such as: elimination of unnecessary administrative burden and reduction of administrative constraints also regarding the subject and the content of the contract.

Risk division between a public entity and a private partner is an essential element of the PPP contracts. This division should be made in such a way as to assign particular risk to the entity which will cope with it most efficiently, i.e. level it out or limit its consequences. The following actions are necessary to do it effectively:

- risk identification,
- risk measurement and
- risk control.

All these actions comprise risk management, which consists in making decisions and implementing actions which lead to achieve a level of risk accepted by the partners. In practice, risk management is associated with the processes of risk assessment and control, whose aim is, among others, to create conditioning for further development. Management control is an example of risk management instrument which may be found in the Act on public finance [consolidated text, Journal of Laws of 2017 item 2077, later amended] (APF). Article 68(1) APF defines such a control as all actions taken to ensure the

implementation of aims and tasks in a legal, efficient, cost-effective and timely manner. Whereas Art. 68(2)(7) APF indicates that the aim of the management control is in particular risk management.

Provisions of the APF are applied to public sector units and other entities in the scope in which they use or manage public funds. It means that management control may be applied in PPP implemented by the units on the national as well local government level.

Risk

As it has already been emphasised, a crucial element of partnership is risk, whose definition is not included in the APPP. This was a conscious and intended action of the legislator, who did not discharge PPP entities from defining risks and determining their division. The aim was not to limit this notion what would stiffen the PPP model.

Regulation of the Minister of Economy of 21 June 2006 on the risk involved in projects carried out through PPP [Journal of Laws No 125, item 868], issued on the basis of the Act on public-private partnership of 2005 [Act of 25 July 2005 on public-private partnership (Journal of Laws No 169, item 1420)], indicated 17 types of risk. Nowadays this regulation is not binding, although it is often referred to when risk is determined.

Risk has been the subject of many fields of science which tried to define it. Some described it as "an objective uncertainty of undesired occurrence" [Willet 1951, p. 6]. Others stated that risk is a possibility to materialise something unwanted, a negative consequence of a certain event [Rowe W.D. 1977, p. 24]. P.U. Kupsch distinguished two types of risk which combine to create a whole:

- formal,
- material risk.

Formal risk is a measurement of uncertainty of a given occurrence as a source. Material risk is a danger of loss [Kupsch 1975, p. 67]. Therefore, it may be assumed that risk is a factor, occurrence or impact which poses a threat to something or someone and which result may be a loss and probability is its shaping and value determinant.

When analysing the notion and types of risk connected with the implementation of PPP undertakings, it may be observed that there are many concepts of risk but it may be stated that risk is a state in which there is a possibility of negative deviation from the desired or expected result. Additionally, risk is an objective and measurable phenomenon [Kulesza, Bitner, Kozłowska 2006, p. 167].

According to the linguistic interpretation, risk describes a possibility that something will fail or an undertaking whose result is uncertain. It may also be a danger that something will happen differently than expected. Additionally, it is also a threat that damages burdening a person directly affected will occur, unless the contract or legal provisions oblige other person to cover the damages [Petrozolin-Skawrońska 1998, p. 1521].

Although there are many definitions of risk, it should be assumed that its complex character makes it impossible to formulate a universal concept which would be identical for all fields of knowledge. Additionally, risk in economic conditions is a common and objective phenomenon resulting from taking certain actions or restraining from them. It is justified that risk cannot be divided, in the strict sense of the word, since division means using various legal institutions which enable to assign to particular parties of the contract the necessity to bear the consequences of particular circumstances [Kulesza, Bitner, Kozłowska 2006, p. 167].

In PPP there are many risks which may threat a given undertaking. Their proper estimation consists in analysing the probability of occurrence and potential economic damage which they may cause. If both factors are significant, then the risk is regarded as high. If the risk is low, then also the probable damage is small.

Risk management

Risk management is a crucial issue for every organisation, both in the public as well as in the private sector. It may generally be assumed that risk management is a system which is to protect a given unit from negative consequences. It is compared to uncertain states management. These states may be defined as untypical phenomena or series of events which may occur. Risk management includes such actions as: planning, organising, coordination as well as control of implementers' work, material and information resources connected with active limitation of the causes and consequences of the phenomena which due to potential great losses or high probability of occurrence may pose a significant threat. The basic aim of risk management is to design the project in such a way that the risk level is acceptable by every participant and minimal to the whole project [www.nbp.pl/publikacje/materialy_i_studia/137.pdf (acces 7 August 2018.].

Additionally, risk management is a logical and systematic method which is to make context, identify, analyse,

evaluate, act, supervise and inform about a risk in a manner which will enable an organisation to minimize losses and maximize possibilities [the Ministry of Finance].

Risk management in the case in the case of PPP is a task belonging to the public institution, which is the initiator, coordinator and due to managing public funds is obliged to take actions which are to spend public funds efficiently by, among others, placing the assets in such undertakings as PPP.

Risk management is seen as good management practice. The sole process of risk management includes the following stages:

- understanding performed activity,
- identification,
- analysis,
- scoring,
- risk prioritising,
- management.

Risk management cannot be treated as a burden to the organisation but as a way to maximize available possibilities and minimize the probability of failure.

It constitutes a basis for creating proper corporate governance, i.e. a combination of processes and structures introduced to achieve proper information flow, management, to direct and monitor actions in an undertaking targeted at achieving the objectives set. It is considered that risk management may help in enhancing the quality of services and using available possibilities. It may also actively facilitate managing operational and service activities as well as implementing changes. This process is a tool which leads to success [the Ministry of Finance].

Management control

Management control is a tool which PPP parties may use in the process of risk management. This institution was introduced into the legal system by the amendment to the Act on public finance of 27 August 2009 [Journal of Laws 2009 No 157, item 1240, later amended]. The legislator wanted to improve the management of a public sector unit. The introduction of management control was to gradually shift to the managerial governance model.

Here it needs to be emphasised that management control includes financial management of the public sector unit but it does not exclude covering other units in the scope of the tasks implementation, achieving goals set by a given public sector unit within specific undertakings in various legal forms. Such adopted model of management control allows to apply it in PPP and conduct procedures proper to management control on the level of partnership.

Management control proposed by the legislator is used to achieve expected results by implementing management system. In other words, it is a system which serves to collect and use information to evaluate organisation's effectiveness in correlation with the strategy set by it. It may be stated that it is active control [Matysek 2011, p. 39.].

Pursuant to Art. 68(2) APF the aim of management control is to ensure effectiveness and efficiency of the actions, reliability of statements, protection of resources, efficacy of the information flow and risk management. These aims comprise a closed catalogue. However, from the point of view of PPP, the scope of the aim which should be achieved may be shaped freely by PPP entities in the contract concluded between them.

Additionally, Art. 69 APF obliges the Minister of Finance to issue standards of management control and to publish them in the form of an announcement. These standards are to be guidelines for units' directors, in compliance with binding international control standards. They are presented below in five groups corresponding to particular elements of management control:

- internal environment, which concerns a unit management system and its organisation as a whole,
- risk management, which serves to increase the probability to achieve a unit goals by: determining aims and monitoring tasks implementation, risk identification, reaction to risk and preventive actions; it means focusing on identification and measurement of chances as well as threats, what should be reflected in creating strategic documents and units' action plans,
- control mechanisms which are the solution to specific risk which a given organisational unit wants to minimize by, e.g. systematic control, documentation, registering and approving specific economic operations, division of responsibilities, supervision within official hierarchy, recording exceptions from procedure, guidelines, instructions, etc., division of tasks enabling errors detection and correction,
- information and communication assuring that specific people from a unit have access to information necessary to fulfil their duties and at the same time ensuring proper information flow,
- monitoring and evaluating control system from the perspective of the effectiveness of the current

control system and its particular elements, solving specific problems [Kaczurak-Kozak 2012, p.142].

Management control uses solutions which are applied to different management functions such as planning, organising and managing human resources by, among others: using norms established during the planning stage, managing people; giving feedback important or even essential for proper implementation of the management process in the scope covered by the planning processes [Przybyła 2003, p. 13].

Analysing management control it may be stated that it is based on the "3E principle":

- efficient (purposeful and effective),
- economical (beneficial, cost-effective),
- ethical (according to recognised values) [Kieżun 1998, p. 68].

Management control assumes that the result of a unit activity is possible to identify, compare, what as a result will allow a given unit to properly manage obtained resources and direct them to the spheres which are significant to achieve its goal [Winiarska 2012, p. 13].

It is a constant process of management actions which aim at achieving objectives set. Therefore, the starting point is to define these targets, which need to be common for all participants of a given process. In relation to PPP they must be proper for both public entity as well as for the private partner. The result of management control is to reach the targets set. Next step is to assess risks, i.e. identify them, measure their probability and results and finally to set priorities of preventive measures. When risks are established, then the scope of control is to be determined, whose basic aim is to prevent risk [Matysek 2011, p. 45]. Public administration should be guided by a basic assumption to create an environment in which risk identification will be done in connection with a process and control will be the answer to a specific risk [the Ministry of Finance].

Assuming that the control process took place with a frequency which guarantee a unit director obtaining current information about potential risks, corrective measures could be implemented naturally and in time allowing to achieve results, which based on feedback loop would bring expected results [Matysek 2011, p. 49].

Conclusion

To sum up, management control is an institution which allows to manage risk in public-private partnership. The aims defined in the closed catalogue, which is described in Art. 68(2) APF, may be shaped freely in PPP.

It needs to be emphasised that management control is applied to public sector units as well as to other units in the scope in which they use and manage public funds. This means that it may be used both in PPP implemented on national as well as local government level.

This institution is used to achieve results by implementing a management system which consists in collecting and using information to assess the effectiveness of an organisation in correlation with the strategy determined by it. It should be stated that Polish legal system allows public sector units to conduct the process such as management control, which as a system of effective risk management is a proper instrument which may be used by the PPP parties. Implementing management control procedures is a guarantee to achieve expected results.

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К ВОПРОСУ СОВЕРШЕНСТВОВАНИЯ ФИНАНСИРОВАНИЯ НАУЧНЫХ ПРОЕКТОВ В РОССИЙСКОЙ ФЕДЕРАЦИИ

THE QUESTION OF IMPROVING THE FUNDING OF SCIENTIFIC PROJECTS IN THE RUSSIAN FEDERATION

Abstract

At present, the problems of funding research activities and taxation of research grants are inextricably linked. Science financing, according to the leadership of our country, is of paramount importance and must be accompanied by breakthrough discoveries in its various fields. At the same time, in practice, there are questions of how the grantees will receive full budget funds for scientific research. The Author in a series of articles explores the mechanism of appointment, the use of grants as well as controversial issues of their taxation and makes suggestions for improvement in this area.

Keywords: grants, grantees, taxes, RFBR, science funding

Ключевые слова: гранты, грантополучатели, налоги, РФФИ, финансирование науки

Введение

В современном мире наибольшее внимание уделяется теме финансирования научной деятельности, ибо развитие науки и наукоемких отраслей экономики, есть важная стратегическая задача нашего государства. На недавних заседаниях Совета по науке и образованию, посвященным вопросам глобальной конкурентоспособности российской науки, с докладом выступал Президент Российской Федерации Владимир Владимирович Путин. В частности, он отметил: «В науке, как в других областях мы должны добиваться настоящего прорыва. Нужно раз и навсегда отказаться от поддержки неэффективных, от устаревших, отживших подходов в организации научной деятельности и безусловно, страна ждет от науки новых решений, которые могут изменить качество жизни людей, придать мощную динамику развития России» (8 февраля 2018 года г. Новосибирск). «Это вопрос нашего существования, нашего выживания в полном смысле этого слова. Знания, технология, кадры - основа для реализации наших нацпроектов, для достижения наших стратегических целей. Нам нужны прорывные открытия и разработки. Они позволяют создать отечественную продукцию мирового уровня»- сказал он. «Мы не будем экономить на науке. Но мы должны сделать так, чтобы огромные средства привнесли отдачу для государства и общества, для развития самой науки» - добавил президент (27 ноября 2018 года г. Москва).

В том же духе 13 февраля 2019 года на 452-м заседании Совета Федерации высказалась Председатель комитета по науке, образованию и культуре Зоя Федоровна Драгункина: «Без науки, образования

и культуры прорывное развитие страны невозможно» [www. council.gov.ru (дата доступа 12.06.2019)].

Зададимся вопросом: возможно ли эффективное финансирование научной деятельности без «прозрачного» механизма распределения бюджетной средств на назначение, выдачу и использование грантов и без устоявшейся системы налогообложения грантов на проведение научных исследований?

Разберем этот вопрос на примере конкретной ситуации. Мы с коллегами из Института государства и права РАН приняли участие в конкурсе на получение гранта от Российского фонда фундаментальных исследований и благополучно победили в нем. Наш научный проект посвящен изучению правового механизма назначения, выдачи и использования грантов в целях финансирования научно-исследовательских, опытно-конструкторских и технологических работ. Встал вопрос: а какую сумму, выделенную фондом на научные исследования, мы получим в итоге? Оказалось, что вроде бы простой вопрос, имеет несколько вариантов ответа.

Во-первых, часть средств, благодаря заключенному трехстороннему договору между грантополучателями, ведущей организацией и фондом, ведущая организация оставляет себе. Сумма это колеблется от 10 до 20%, в зависимости от условий договора. Ведущая организация, не оказывая никаких услуг, не являясь работодателем по условиям данного договора, автоматически забирает себе эту часть средств, выделенную на научные исследования. А можно ли было принять участие в конкурсе группе ученых на получение гранта минуя ведущую организацию? На сайте Российского фонда фундаментальных исследований [www.rfbr.ru/rffi/ru/faq (дата доступа 12.04.2019)], я нашел однозначный ответ, что в первую очередь рассматриваются заявки научных групп, где присутствует ведущая организация. Стало понятно, что избежать трехстороннего договора не удастся и эти отчисления являются так называемым «скрытым налогом», который внедрен в систему распределения бюджетных средств, направленных на развитие научных исследований [Белявский 2017, сс. 1-22].

Во-вторых, со стороны бухгалтерской службы ведущий организации поступали недвусмысленные поползновения, уплатить с сумм, выделенных нам фондом, налог на доходы физических и лиц, и страховые взносы. Точно такие же вопросы поступали ко мне со стороны коллег, которые участвовали в своих научных проектах и не могли самостоятельно разобраться в этом вопросе.

Для начала разберемся в нормативно-правовых актах, касающихся налогообложения грантов на проведение научных исследований.

По мнению законодателя, гранты - денежные и иные средства, передаваемые безвозмездно и безвозвратно гражданами и юридическими лицами, в том числе иностранными гражданами и иностранными юридическими лицами, а также международными организациями, получившими право на предоставление грантов на территории Российской Федерации установленном Правительством Российской Федерации порядке, на осуществление конкретных научных, научно-технических программ и проектов, инновационных проектов, проведение конкретных научных исследований на условиях, предусмотренных грантодателями [Федеральный закон от 23.08.1996 № 127-ФЗ (ред. От 23.05.2016) «О науке и государственной научно-технической политике» ст.2].

В Налоговом кодексе Российской Федерации (часть вторая) от 05.08.2000 № 117-ФЗ в п.6 ст.217 [Налоговый кодекс Российской Федерации (часть вторая) от 05.08.2000 № 117-ФЗ п.6 ст.217] указано, что суммы, получаемые в виде грантов (безвозмездной помощи), предоставленных для поддержки науки и образования, культуры и искусства в Российской Федерации международными, иностранными и (или) российскими организациями по перечням таких организаций, утверждаемым Правительством Российской Федерации, освобождаются от уплаты налога на доходы физических лиц (п. 6 в ред. Федерального закона от 23.03.2007 № 38-ФЗ).

Постановлением Правительства Российской Федерации от 15 июля 2009 года № 602 утвержден перечень российских организаций, получаемые налогоплательщиками гранты (безвозмездная помощь) которых, предоставленные для поддержки науки, образования, культуры и искусства в Российской Федерации, не подлежат налогообложению, где под пунктом 11 значится Российский фонд фундаментальных исследований, г. Москва.

Изучив весь этот перечень нормативных актов, можно дать однозначный ответ, что вопросы налогообложения грантов на проведение научных исследований однозначно трактуются в пользу грантополучателей-физических лиц и несмотря на это, на практике возникают спорные вопросы об их применении.

Судебная практика по налогообложению грантов на научные исследования, наоборот, оказалась очень скудна. Несмотря на это, письма Департамента налоговой и таможенной политики Минфина РФ по данной тематике выходили с завидным постоянством. Вот выдержка одного из последних их ответов на письма граждан по данному вопросу: «Так, в соответствии с пунктом статьи 6 статьи 217 Налогового кодекса Российской Федерации освобождаются от обложения налогом на доходы физических лиц суммы, получаемые налогоплательщиками в виде грантов (безвозмездной помощи), предоставленных для поддержки науки и образования, культуры и искусства в российской Федерации международными, иностранными и (или) российскими организациями по перечням таких организаций, утверждаемым Правительством Российской Федерации.

Российский фонд фундаментальных исследований включен в Перечень российских организаций, утвержденный постановлением Правительства Российской Федерации от 15.07.2009 №602, фанты (безвозмездная помощь) которых, предоставленные налогоплательщикам для поддержки науки, образования, культуры и искусства в Российской Федерации, не полежат обложению налогом на доходы физических лиц» [Письмо Департамента налоговой и таможенной политики Минфина России от 28 марта 2018 г. № 03-04-06/19786].

О чем это говорит? Что достаточно прозрачная норма права трактуется сторонами-участниками договора самостоятельно, без учета реалий.

В этой же связи, я обнаружил письмо Российской академии наук от 3 мая 2011 года № 10116-1429/95, где четко выражена позиция главного научного заведения нашей страны: «Исходя из изложенного, средства на оплату труда, выплачиваемые из сумм грантов по согласованию с руководителем проекта научным работникам, принимающим участие в проектах РФФИ, освобождаются от налогообложения налогом на доходы физических лиц со дня утверждения перечня российских организаций вышеуказанным Постановлением Правительства Российской Федерации. Возврат налогоплательщикам сумм излишне удержанного налога на доходы физических лиц производится исходя из положений ст.ст.78 и 231.2 Налогового кодекса Российской Федерации».

Надо отдать должное позиции самого Российского фонда фундаментальных исследований по вопросу уплаты налога на доходы физических лиц и страховых взносов. На своем сайте он четко объясняет своё мнение по данному вопросу: «В соответствии с действующим законодательством, п.6 Ст.217 НК РФ грант, полученный физическим лицом (физическими лицами) освобождается от обложения налогом на доходы физических ли Полагаем, что выплаты страховых взносов, если они осуществляются Организацией в рамках отношений, оформленных документами Фонда, не могут быть признаны обоснованными» [www.rfbr.ru/rffi/ru/faq (дата доступа 12.06.2019)].

В этой же связи, не лучшим образом обстоит дело с так называемыми «хозяйственными договорами», которые выполняют ученые-исследователи в своих научных институтах для поддержания своего финансового благополучия, отвлекаясь от первостепенных задач. Это дополнительный способ заработка для любого российского ученого, приводит к еще более глубокому секвестированию получаемой на руки суммы. До 40 процентов от сумм, выплаченных на его реализацию, уходит работодателю, а с оставшихся средств еще выплачиваются подоходный налог, страховые взносы и.т.п.

Заключение

Что мы имеем в итоге? Благодаря нынешней системе налогообложения грантов на проведение научных исследований, мы получаем неэффективное распределение бюджетных средств, направленных на развитие научной мысли в нашей стране. [Курбатова 2015, сс. 141-149]. По скромным подсчетам, грантополучатель-физическое лицо может недополучать более половины средств из этой сумм. Бюджетные средства, направленные на науку, прокрутившись на счетах организаций, снова и снова возвращаются в бюджет, так и не дойдя до конечного пользователя.

Нынешнее положение дел, говорит о том, без реформирования нынешней системы налогообложения и механизма распределения бюджетной средств на назначение, выдачу и использование грантов в целях финансирования научно-исследовательских, опытно-конструкторских и технологических работ, мы не можем ожидать новых прорывных научных проектов, которых так ждет наше государство.

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A FEW REMARKS ON CZECH INTEREST LIMITATION RULES IN THE CONTEXT OF PANDEMIC

Abstract

This contribution focuses on an economic impact of the pandemic on Czech taxpayers in the context of the rule limiting deductibility of net financial expenses and thin capitalization rule. For this purpose, a hypothesis is proposed that these rules may in fact increase the negative economic impact of the pandemic.

Keywords: tax law, interest tax deductibility limitation, thin capitalization

Introduction

In the wake of the still ongoing pandemic of COVID-19, the governments over the globe have introduced number of fiscal measures [https://www.ey.com/en_gl/tax/how-covid-19-is-causing-governments-to-adopt-economic-stimulus (access 26.10.2020)] to mitigate the related economic impact. In the case of the Czech Republic, the International Monetary Fund estimates an annual decrease of GDP by 6.5% [https://www.imf.org/en/Countries/CZE#countrydata, access 1.11.2020)] and the Czech Statistical Office reports decrease of GDP by 5.8% [https://www.czso.cz/csu/czso/ari/gdp-preliminary-estimate-3rd-quarter-of-2020, (access 01.11.2020)] for 2020.

It should be also considered that economic consequences of the pandemic caused recession are not evenly distributed even in a single economy, specific industries such as airline, travel or services have been brought by government measures to a practical standstill while other businesses merely experience material decrease of profitability.

In this context, the impact of laws which were in effect prior to the pandemic on taxpayers should be reviewed and it should be considered whether some of these rules would not in fact worsen negative economic impact of the pandemic.

Therefore, the goal of this contribution is to identify consequences of Czech interest tax deductibility rules 'sensu largo', i.e. rule limiting deductibility of net financial expenses and thin capitalization rule, in the light of imminent economic recession. It also provides practical insight into application of these rules and some elemental structuring employed by taxpayers to mitigate additional tax expenses. For this purpose, a hypothesis is proposed that these rules may in fact increase the negative economic impact of the pandemic recession.

This contribution uses such scientific methods as: description to introduce the respective rules, critical analysis to identify practical consequences of applicability of these rules in the current situation and synthesis to formulate the conclusions and thus meet the goal of the contribution. As the scope of this contribution is limited, only a few selected practical issues are discussed.

As regards the academic writing, the relevant authorities prevalently focus on compatibility of the interest limitation rules with the EU law or constitutional law principles such as ability to pay principle [Van Os 2016, pp. 193-197; Dourado 2017, pp. 120-121; Hillmann, Hoehl 2018, pp. 23-24]. However, since the pandemic has affected the taxpayers only recently, none of the authorities focus specifically on related economic aspects. Therefore, the contribution also benefits from practical insight.

Thin capitalization rule

Since its adoption in 1993, the Czech Income Taxes Act included a thin capitalization rule which originally covered

only interest on loans provided by Czech tax non-residents exceeding 4:1 equity to debt ratio, respectively 6:1 ratio in case of banking and insurance companies. This provision has been amended several times and currently disallows tax deductibility of interest (and associated expenses) on financial credit instruments provided by both Czech tax resident and non-resident related party creditor exceeding 4:1 equity to debt ratio or 6:1 ratio in case of banking and insurance companies.[1]

According to the unbinding guidance of the General Financial Directorate, the equity and amount of related party financial credit instruments is calculated on average basis for the respective tax period and in case of equity without the impact of current tax period's economic result [Guidance D-22 of the General Financial Directorate of 6 February 2015 no. 5606/15/7100-10].

In the light of the above, it seems that negative economic result achieved by a taxpayer due to pandemic in the current tax period should not immediately decrease the average equity and consequently should not increase the amount of tax non-deductible interest in the current tax period.

However, indirect economic effects of the pandemic should be considered as well. In the current tax period taxpayers may deplete their readily available financial resources which would have to be replenished to allow for payment of due liabilities and further economic activities.

In case the additional financial resources were obtained by a financial credit instrument from a third party, the equity to related debt ratio would not be affected. However, it should be pointed out that such funding may be economically unreasonable due to taxpayer's potential credit rating deterioration caused by the negative economic result and structural changes of a balance sheet. The third-party creditor would in such situation probably require higher risk premium reflected in higher interest rate.

The related party creditor would be able to provide financial credit instrument at a lower than market price interest due to exception to arm's length principle provided by the sec. 23/7 of the Income Taxes Act, allowing lower interest rate between related parties if a creditor is Czech tax non-resident, Czech tax resident shareholder of the debtor or personal income taxpayer. It should be also considered that interest on financial credit instrument provided by taxpayer's Czech tax non-resident parent company may benefit from lower or nil withholding tax rate under applicable double tax treaty or Czech Transposition of Interest - Royalty Directive under sec. 19/1/zk) of the Income Taxes Act.

Although the related party financial credit instrument may be economically preferable, the equity to related debt ratio would decrease and interest from larger portion of related party debt might be tax non-deductible in the current tax period. However, this issue could be avoided by proportionate increase of equity to maintain optimal 4:1 equity to related debt ratio.

In the following tax period, the taxpayer's equity would be decreased by negative economic result of the current tax period which would decrease the equity to related debt ratio. Therefore, additional adjustments of the financial structure would be required to achieve optimal 4:1 ratio and preserve tax deductibility of entire amount of interest on related party debt[2].

It should be pointed out that the above adjustments should be generally in the taxpayer's sphere of discretion since they may select a funding alternative according to their own needs and preferences [Ruling of Supreme Administrative Court ČR from 7 March 2007 no. 8 Afs 33/2005 – 54]. Therefore, it could be reasonably argued that non-artificial adjustments of financial structure should be legitimate even in the light of 'abusus iuris' case law [Ruling of Supreme Administrative Court ČR from 15 October 2015 no. 9 Afs 57/2015 – 120].

Rule limiting deductibility of net financial expenses

In contrast to the thin capitalization rules, the rule limiting deductibility of net financial expenses has been introduced to the Czech tax law relatively recently by the Income Taxes Act amendment transposing the Anti-Tax Avoidance Directive (further ATAD).

In the tax periods starting on or after 1 April 2019, the rule limiting deductibility of net financial expenses is applicable next to the thin capitalization rules since the former rule targets only the otherwise tax-deductible financial expenses, i.e. not borrowing expenses non-deductible

[1] The sec. 25/1/w of the Act. No. 589/1992 Coll. Income Taxes Act, as amended (further Income Taxes Act), also covers back-to-back financing flowing through a third-party intermediary.

[2] From the practical perspective, these adjustments could be realized without undue administrative burden or costs via capitalization of the part of related party debt, e.g. in the form of contribution to other capital funds.

under other provisions of the Income Taxes Act [Hrdlička 2018, pp.15-17].

The rule limiting deductibility of net financial expenses itself largely follows wording of the ATAD, i.e. exceeding borrowing costs are tax deductible up to CZK 80 million (which corresponds to approx. EUR 3 million) or, if higher, up to 30% of tax EBITDA (taxable profit before interest, taxes, depreciation and amortization). It should be pointed out this rule covers exceeding borrowing costs from both related and unrelated party debt.

The borrowing costs are relatively widely defined[3] and include mainly expenses on loans, economically equivalent costs such as interest element of financial lease payments or notional interest amounts in derivative instruments, and other specified expenses such as exchange rate differences or capitalized interest. From these expenses should be deducted corresponding borrowing incomes [Kouba 2017, p. 16].

In line with the option provided by the ATAD, the Czech Republic introduced two subjective exclusions from the rule under sec. 23f of the Income Taxes Act, i.e. for listed financial undertakings and for independent taxpayers[4] without a permanent establishment and obligation to consolidate financial statements.

Although the Income Taxes Act allows a carry forward of the excluded exceeding borrowing costs to unlimited subsequent periods, a carry back option provided by the ATAD has not been transpose. Furthermore, the carried forward excluded exceeding borrowing costs cannot be transferred to a legal successor under sec. 23e/6 of the Income Taxes Act.

Assuming the recession will have the impact on individual taxpayers suggested in the previous section, the amount of deductible interest under the rule limiting deductibility of net financial expenses would be significantly lower.

In case the taxpayers considerably increase amount of debt funding as is generally expected [https://www.ey.com/en_uk/news/2020/11/covid-19-will-cause-firms-to-borrow-over-five-times-the-amount-in-2020-than-in-2019-with-many-unlikely-to-start-repaying-until-2022, (access 26.10.2020)], the amount of interest would proportionately increase as well. At the same time the taxpayers' credit rating may deteriorate due to worse economic results or structural balance sheet changes, e.g. greater than optimal portion of debt funding, which may cause higher interest rate being demanded by creditors.

At the same time, it can be reasonably expected that taxpayers' EBITDA will significantly decrease and larger portion of the increased amount of net borrowing costs will be treated as tax non-deductible. In specific industries the taxpayers will not even be able to achieve positive EBITDA and the entire amount of borrowing costs would be tax non-deductible in the period under review.

Since the Czech Republic has not transposed carry back option, the taxpayers would be able to carry these non-deductible borrowing costs only to following tax periods. However, this capacity could be utilized in the future only if taxpayers would achieve EBITDA whose 30% would exceed the net borrowing costs in that tax period or would generate more interest income than expense. In addition, no such costs could be transferred to a surviving entity of a merger. Both of these aspects are relatively surprising as the Czech Republic has recently introduced carry back of tax losses and other tax attributes which can be generally transferred during a merger.

Similar observations have been formulated in relation to the practically identical German interest barrier rule by the German Federal Fiscal Court [2016] which stated that in practice a condition precedent to utilization of carried forward interest is a fundamental change of taxpayer's activities, i.e. either a comparative increase of interest income to expenses or a relatively significantly higher EBITDA [Lampert, Meickmann, Reinert 2016, pp. 59-60].

As in case of the thin capitalization rule, the taxpayers' economic decisions might be thus considerably distorted by the effects of the rule limiting deductibility of net financial expenses. Namely, in the case of taxpayers in recent financial distress, this performance-based rule would in practice decrease investment capacity by imposing additional tax cost on the deductible interest [Hillmann, Hoehl 2018, pp. 23-24]. From a practical view, the taxpayers may be by the rule forced to refinance to non-debt funding or shift investments from other financial instruments or projects to interest bearing debt instruments to

[3] The term borrowing costs included in the ATAD arguably contains also expenses which are tax non-deductible under other provisions of ATAD, e.g. expenses on profit-linked loans which are excluded by sec. 25/1/zl of the Income Taxes Act.

[4] Interestingly, the (non) independence status is here based on definition of associated enterprise for CFC purposes under sec. 38fa of the Income Taxes Act, i.e. entities related by equity, i.e. at least 25% direct or indirect participation in equity or voting rights, or at least 25% direct profit participation. In comparison, the thin capitalization rules affect also entities related personally or otherwise in the meaning of sec. 23/7 of the Income Taxes Act.

decrease the net borrowing costs. These tax driven decisions would lead to economic inefficiencies.

Above economic consequences of the rule limiting deductibility of net financial expenses are in contrast with the general ability-to-pay principle, namely its net taxation aspect. An exemption to this principle should be justified by an overriding reason, in the case of German interest barrier rule such justification was, according to the government, a prevention of tax avoidance. Furthermore, in detailed analysis of this justification the German Federal Fiscal Court held that the tax avoidance is generally absent in purely domestic situations, third party funding situations, in the case of companies which were established recently, are in financial distress or operate in highly leveraged industries [Van Os 2016, pp. 193-197]. For these reasons the rule could not achieve its justifiable aim, was considered unconstitutional and the case was referred to Federal Constitutional Court which has not yet rendered its decision.

As the Czech rule limiting deductibility of net financial expenses is practically identical to the German interest barrier rule which served as an inspiration for the respective ATAD provision, it can be reasonably argued that the rule is inappropriate to attain its legitimate aim of tax avoidance prevention.

For the similar reasons it could be argued that the rule limiting deductibility of net financial expenses does not meet necessity, adequacy and proportionality requirements under the CJEU case law. It should be also noted that the rule does not give taxpayers a possibility to provide counterevidence of no tax avoidance. Therefore, it seems that the respective ATAD provision might have been drafted to formally comply with the EU non-discrimination principle and without due regard to its declared goal [Dourado 2017, pp. 120-121]. Instead the provision rather serves to safeguard a tax revenue of a respective state.

Conclusion

This contribution focused on the consequences of Czech thin capitalization rule and rule limiting deductibility of net financial expenses in the light of imminent economic recession. Based on the analysis of the respective provisions, it may be concluded that the recession driven financial effects such as the need of additional funding, deteriorated credit ratio or economic performance may increase the amount of tax non-deductible interest. Therefore, the hypothesis may be considered verified, the thin capitalization rule and the rule limiting deductibility of net financial expenses may accentuate the negative economic impact of the recession.

In addition, the taxpayers may attempt to structure around these rules to avoid the additional tax cost instead of making rational tax-non-driven decisions. This may bring about additional economic inefficiencies.

Therefore, it should be examined whether the interest-based tax base erosion cannot be prevented by less economically intrusive measures such as more thorough application of arm's length principle.

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DIGITALIZATION AND REMOTE COMMUNICATION WITH THE TAX ADMINISTRATOR IN THE TIME OF COVID AND POST-COVID

Abstract

Today's rapid times with the rapid development of technology require a change in the performance of obligations of citizens and companies to the state. Whereas in the past we were content with the paper form of communication, now we are slowly abandoning it. The entire process has now been accelerated by the Covid-19 pandemic. However, the reaction time varies from industry to industry. In public administration in general, gradual digitalization is inevitable, but very slow. This happens due to a number of factors, such as the transparency of public procurement, insufficient system readiness or insufficient staff qualifications. Last but not least, a lot of sensitive data is sent when communicating with the tax administrator, so emphasis must also be placed on cyber security and data protection. It is the public sector in the Czech Republic that often faces the problem of outdated systems that have not been improved and changed for many years. Another long-discussed issue is the interconnectivity of individual systems that did not communicate with each other. This paper deals with changes in communication with the tax administrator on the example of the Czech Republic. The paper emphasizes the state before and during the Covid-19 pandemic, and predictions of the future development of digitalization in the tax administration.

Keywords: Digitalization, the Czech Republic, Covid-19, Remote communication, Tax administration

Introduction

Communication with the authorities and the financial administration is an essential step in preserving the rights and obligations of taxable persons. The communication itself has undergone a significant change over the years. Most developed countries have managed to move from physical, personal communication to partially digitized communication. Each country organizes its own tax policy, including the tax administration, and this results in different regulations and procedures. For the purposes of this contribution, it is therefore necessary to limit oneself to the example of one country. In this case, the Author chose the Czech Republic, as it is the country of her origin and her research in this area is of a longer-term nature.

It is clear that some countries are ahead in the digitalization initiative. In this area, we can also see, in addition to the individual procedures of individual states, a joint initiative of several states. For example, the Forum on Tax Administration was established in 2002, under the auspices of the OECD [https://www.oecd.org/tax/forum-on-tax-administration/about/ (access 30.09.2020)]. Currently, the FTA has 53 members (the Czech Republic is also a member) who seek to identify global trends and potential problems. The Forum addresses topics such as the fairness, efficiency and effectiveness of the tax administration in the Member States of the Forum. The Forum also regularly issues publications summarizing progress in this field and cooperation of individual members.

The paper deals primarily with the digitalization of the Czech tax administration. The aim of the paper is to outline the history of digitalization in the Czech Republic, to describe the current state and to outline the future forecast of the speed of digitalization in the Czech Republic. The hypothesis is set out as follows: The development of the use of digital communication with the tax administrator was accelerated by the Covid-19 pandemic. In order to determine whether the hypothesis will be confirmed or rejected, it will also be necessary to answer the questions: What is the state of digitalization of the tax administration in the Czech Republic? And how has this condition changed during the Covid-19 pandemic? The Author will use methods of description, deduction and prediction to find out whether hypothesis will be confirmed or not.

Theoretical background

In order to be able to deal in detail with the issue of this paper and to confirm or refute the hypothesis, it is necessary to define the basic concepts with which the paper deals.

Digitalization is the technology of transfer a document content to another medium. That concerns conversion of the analogue documents (images, video, audio, text) to the digital form [http://aleph.nkp.cz/F/?func=direct&doc_number=000001728&local_base=KTD. (access 30.09.2020)].

Once we are dealing with digitalization of tax administration we should understand digitalization as a transition from an analogue form of communication with the tax administration to the digital form of communication. According to Veber: "Digital transformation in the Czech Republic, as in many other countries, is taking place on two levels. The first is the private sector, which implements various, but in most cases partial, applications. The second are government organizations, which on the one hand implement part of the activities related to the digitalization of public administration, and on the other hand develop a number of programs to support the development of digitalization in the Czech Republic" [2018, p. 50]. Base on the above mentioned, it could be said that both types of digitalization are currently on different levels.

Sometimes terms digitization and digitalization are two conceptual terms that are closely associated and often used interchangeably in a broad range of literature [https://www.forbes.com/sites/jasonbloomberg/2018/04/29/digitization-digitalization-and-digital-transformation-confuse-them-at-your-peril/#192de0822f2c, (access 30.09.2020)]. According to Gartner's dictionary, digitalization is the use of digital technologies to change a business model and provide new revenue and value-producing opportunities; it is the process of moving to a digital business. For the purposes of this paper the Author chose the term digitalization, which is according to the Author more appropriate.

Development of digitalization in the Czech Republic has nowadays its legislative base in the Act No. 12/2020 Coll., on the right to digital services, as amended (also called Digital Constitution). It is the base for the possible further development of the digitalization of public administration in the Czech Republic. As the legal act is quite new, there is no further linkage to tax administration yet.

Tax administration includes all relationships between taxpayers and tax administrators [Radvan 2020, p. 88]. Tax payers in the Czech Republic are natural and legal persons. According to Radvan a taxpayer is a person whose income, property, or acts in law are directly liable to tax. In the Czech Republic we determine also a payor who is a person who has a material liability to transfer collected or withheld taxes from the taxpayer to the tax administrator [Radvan 2020, p. 89].

Tax administrator is a state employee, but generally it is the body of state administration who should take care about the main purpose of tax administration in the Czech Republic. This purpose is set by the Act no. 280/2009 Coll., Tax Procedural Code, as amended (hereinafter as "Tax Procedural Code") and it is correct identification and determination of taxes and securing of their payment [Tax Procedural Code: Sec. 1, subsection 2]. Tax Procedural Code together with Act no. 456/2011 Coll., on financial administration of the Czech Republic, as amended, should be concerned as the most important acts of tax administration.

Past development of digitalization in the Czech tax administration

As everywhere in the world, communication with the authorities has undergone significant development in the Czech Republic. First, there was interaction in person and by postal services. However, both options are very limited. The most common obstacles to personal communication with the tax administrator are limited office hours and the availability of tax offices. In the case of postal services,

there may be a situation where the item is delivered late, destroyed or does not even arrive at the addressee at all. In the case of the use of postal services, it was also necessary to think about sending things in advance so that they arrived on time.

As already mentioned, times have gradually changed. Already in 2000, Act No. 227/2000 Coll., on electronic signatures, as amended, was adopted. This Act was later repealed and replaced by Act No. 297/2016 Coll., on services creating trust for electronic transactions, as amended. Above all, this change was intended to ensure greater use of this technology. The processing of electronic signatures is now harmonized in the European Union through European Union Regulation No. 910/2014 on electronic identification and trust services for electronic transactions in the European internal market (often referred to as eIDAS).

Electronic signature thus gradually became known to users and began to be widely used, for example, for signing VAT returns or for electronic communication with the tax administrator.

The electronic signature is based on certification services and in the Czech Republic it can be arranged only with qualified sub-providers maintained by the Ministry of the Interior of the Czech Republic (eg. Česká pošta, s.p.) [https://www.mvcr.cz/clanek/prehled-kvalifikovanych-poskytovatelu-certifikacnich-sluzeb-a-jejich-kvalifikovanych-sluzeb-320051.aspx (access 30.09.2020)].

Based on eIDAS, the electronic identity (e.g. electronic signature) will be used for another tool for digitizing communication with the tax administrator in the Czech Republic.

The data box is an electronic repository defined by Act No. 300/2008 Coll., on electronic acts and authorized conversion of documents, as amended. Data boxes are used to deliver electronic persons between legal and natural persons and between financial administration. An important fact is that in the Czech Republic, state administration bodies are obliged to have a data box set up. Legal entities registered in the Commercial Register have the same obligation. For most other entities, setting up a data box is voluntary. With the introduction of the data box, public authorities are obliged to send documents to the addressees preferably using the data box. The data box is available at www.mojedatovaschranka.cz.

The introduction of the data box prevented obstructions in the delivery of tax related issues. Transferring documents using a data box is fast and more efficient than with standard mail. Entities that have a data boxes set up must file tax returns through them.

The last of the important tools of remote access is the tax information box. It is defined in Section 69 of the Czech Procedural Code.

This concept was magnificent and the future of communication with the tax administrator lay in it. Historically, there have been some major problems with the implementation of DIS. For example, the implementation date was postponed by a quarter of a year in 2014 because the IT systems were not properly prepared. Another problem soon appeared when the data displayed in DIS could not be relied on and many times it was wrong. Unfortunately, their value is only informative, even nowadays [https://www.businessinfo.cz/clanky/digitalizace-ucetnictvi-kulha-danove-informacni-schranky-vyvolavaji-zmatek/ (access 30.09.2020)]. Although the development of DIS has shifted since then, the authors still recommend that the offered list should be indicative.

In the tax information box, it is thus possible to view the personal tax accounts of tax subjects, their statuses; the tax information box also allows to see an overview of documents, a personal tax calendar or information about a tax subject [https://adisspr.mfcr.cz/adistc/adis/idpr_pub/dpr_info/co_je_to_dis.pdf (access 30.09.2020)].

Access to the tax information box is possible in cases when a tax subject has access to the data box or possesses Qualified Certificate. Subsequently, it is necessary to submit an electronic "Application for the establishment of a Tax Information Box".

The main reason why tax information box is useful, even with lot of imperfections, rises from the possibility to control tax affairs. Plenty of tax subjects are paying their attention mainly to their own business and their tax affairs are not that important for them. But there are some occasions when it is worth it.

Although DIS is still imperfect and has only limited functions, thanks to it, it is possible to monitor mainly possible underpayments on individual taxes and possible sanctions resulting from them.

The importance of a clear and accessible display of the status of individual tax accounts of a tax subject can be shown not only on the example of sanctions for arrears, but also on the example of registered overpayment.

Specifically, the Czech Tax Code stipulates that if an entity does not request a refund of the refundable overpayment within 6 years from the end of the year in which the overpayment arose, the overpayment expires and becomes budget revenue from which the tax administrator who registered it is paid (this is stated in Section 155 of the Tax Procedural Code). It is therefore very important to be interested in what happens on each personal tax account, what the balance on the account is or to ask tax authority to send the records, which should be not only informative but right. This could be done via short request send directly to the tax authority and it should contain the time period of records you would like to be sent. It is possible that a refundable overpayment will arise without being noted by an average taxable person. In such case it is very important to act and be aware of the balances.

Current situation and the impact of Covid-19 disease

The Czech Republic lags far behind in digitalization in general compared to other European countries. There are definitely positive developments in this area, which the Authors will demonstrate below, but in comparison to other Member States of the European Union, the Czech Republic in 2018 was ranked 22nd out of 28 Member States [http://ec.europa.eu/information_society/newsroom/image/document/2018-20/5_desi_report_digital_public_services_B5DBE542-FE46-3733 83C673BB18061EE4_52244.pdf, access 30.09.2020)]. However, a significant number of factors is entering into the digitalization of public administration (from political priorities to constraints related to the level and extent of connectivity) that make the process itself highly variable and unique in each country [https://www.gartner.com/en/information-technology/glossary/digitalization (access 30.09.2020)]. In addition, the Czech Republic was ranked 27th out of 28 EU countries in the usage of e-services offered by public administration [http://ec.europa.eu/information_society/newsroom/image/document/2018-20/5_desi_report_digital_public_services_B5DBE542-FE46-3733 83C673BB18061EE4_52244.pdf, access 30.09.2020)].

The main change in the field of taxation now comes with the forthcoming amendment to the Tax Procedural Code. The amendment to the law is relatively extensive and affects almost all areas of the tax process. Regarding digitalization, it mainly focuses on the MY TAXES project, which is an extension of the functions of the Tax Information Box. My taxes (in Czech My Taxes) is to be a platform for modern and simple communication and management of tax matters. MY TAXES project should also include great possibilities of remote actions and legal filings during tax audits.

The amendment to the Tax Code, the final version, was signed by the President of the Czech Republic in summer 2020 [https://www.dreport.cz/blog/senat-schvalil-novy-navrh-novely-danoveho-radu-k-prijeti-zbyva-uz-jen-podpis-prezidenta/ (access 30.092020)]. The amendment will be effective as of 1st January 2021.

It would now have the possibility to provide a tax subject with useful information and advice through notifications (there is no idea yet what it will look like). As already mentioned, the portal will use existing Tax Information Boxes.

The law only regulates the legislative basis for future development, it still depends on the technical capabilities of the tax administrator to make the tool available. If the technical capabilities of the tax administrator allow this, they must publish this information and at the same time publish that they are allocating access data. It does not oblige the tax administrator to make full use of these possibilities. The law explicitly mentions the responsibility for possible misuse of data.

The law explicitly regulates the function of filing from a new tax information box as a filing made by a tax subject. It is still not a full-fledged view of the file. The timeliness and scope of the information depend on the technical capabilities of the tax administrator. The tax information box is left as optional by the amendment. In addition to information for taxpayers, the new portal should also offer the possibility of active and passive communication with the tax administrator, for example, the possibility to file tax returns via online forms, which will allow a certain degree of pre-filling the data of taxable persons. However, communication should also work in the opposite direction, i.e. from the tax administrator to the tax subject, in the sense of delivering documents. The Ministry of Finance estimates that the portal will be launched in the last quarter of 2020.

All the information should be posted on the website www.mojedane.cz. Unfortunately, the government is posting less information than in the past. On the other hand, the development of the new system should be in progress.

The situation of digitalization of the Czech Tax Administration without the effects of the Covid-19 pandemic was set above. However, it was the pandemic that affected the digitalization to a large extent, and the main components of the digitalization, which it significantly affected, will be listed below.

Already during the first wave of the Covid-19 pandemic, the office hours of tax administrators were reduced in the Czech Republic. At present (as of October 2020), office hours are being reduced again [https://www.vlada.cz/cz/epidemie-koronaviru/dulezite-informace/mimoradna-opatreni-_-co-aktualne-plati-180234/#cinnost_uradu, (access 30.09.2020)]. It is these restrictions that force taxpayers to look for other forms of communication, and at a time when taxpayers' fear of Covid-19 is prevalent, this is not surprising. What is left is telephone or correspondence communication. Some tax entities have started to use the tax information box more. The tax authorities in the Czech Republic are used to deal with a lot of documents with tax subjects in person. To some extent, this has also passed. And personal contact is now limited to exceptions of personal discussion of documents necessary by law. A significant change here will be the amendment to the Tax Code, which provides a restriction of personal discussion of documents. For example, a report on a tax audit or the commencement of a tax audit should take place remotely.

The era of Covid-19 and related tax incentives to support the economy has also forced more taxpayers to follow the official website of the financial administration, which has become more or less the only comprehensive source of tax incentives.

It can be assumed that the work on My Taxes portal will be affected by the shortage of staff who are currently working on projects related to the fight against Covid-19. Therefore, the final implementation of My Taxes could be postponed. Unfortunately, there is currently no more information on this.

It can be concluded that digitalization is slowly but surely finding a place in the Czech tax administration. Undoubtedly, these are steps that make financial management more efficient and faster. Current tools are not yet perfect and the whole process of digitization is also affected by the Covid-19 pandemic. It cannot be said that the temporary impact of the pandemic is only to speed up the digitalization process, some aspects of the pandemic also hamper digitization. The great advantage now is the approaching effectiveness of the amendment to the Tax Code, which, as the Author believes, will move the digitalization of the tax administration even further.

Future prediction and Conclusion

Through the COVID-19 pandemic, people have realized how important it is for authorities to be able to maintain their function digitally. Authorities and ministries have experienced what it is like to work remotely without digitalization. After this experience, the public organizations found out how much easier is to make and evaluate applications when the filings are made electronically instead of on paper. The COVID- 19 pandemic helped a lot in the pressure to accelerate digitalization.

The Author of the paper sees a great potential of MY TAXES portal. It could be expected that in the future we will communicate with the tax administration on a basis similar to electronic banking, through which we will not only be able to pay our tax obligations, but also handle all documents and communication with the tax administrator. This would mean a great simplification and a step towards clarity of tax processes and management in the Czech Republic. As always before the implementation of a new platform with such extended functionalities compared to the original tax information box it is especially important what the authors of the new system will do and how they will manage to bring all functionalities to life to really make work easier. Another question is the time horizon in which this platform will be accessible to people.

Today, no one can say with certainty when the tax administration of the Czech Republic will be fully digitized or when the effects of the Covid-19 pandemic will end. It is possible to predict only an increase in cooperation and communication between tax subjects and tax administrators in the online environment. The Author believes that the government will soon create the best possible conditions for more efficient administration and collection of taxes at a distance.

Based on the all above mentioned, the hypothesis that the development of the use of digital communication with the tax administrator was accelerated by the Covid-19 pandemic was confirmed.

Lastly, future digitalization should focus not only on the speed of implementation of new systems, but also on cyber security. Especially in tax administration, sensitive data and trade secrets are very often treated, so this data

must not be endangered in any way on the way to the efficiency of tax administration.

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Author biography

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REPORT ON THE XVIII INTERNATIONAL SCIENTIFIC AND PRACTICAL CONFERENCE "AXIOLOGY IN THE FINANCIAL LAW OF THE CENTRAL AND EASTERN EUROPEAN STATES" (19-20 SEPTEMBER 2019, GRODNO, REPUBLIC OF BELARUS)

On September 19-20, 2019 at the Yanka Kupala State University of Grodno (Republic of Belarus) was held the XVIII International scientific and practical conference "Axiology in the financial law of the Central and Eastern European States". The conference was organized by the International Law Department at the Faculty of Law together with the Center for Information and Research Organization on Public Finance and Tax Law in the Countries of Central and Eastern Europe. The conference was a continuation of the annual international scientific and practical conferences organized by the Center in Prague, Brno, Vilnius, Bialystok, Kosice, Voronezh, Paris, Lviv, Gyor, Omsk, Mikulov, etc.

More than 80 representatives took part in the conference from the universities in the Republic of Belarus, the Republic of Poland, the Czech Republic, Slovakia, the Russian Federation and the Republic of Kazakhstan. The first Vice-rector of the Yanka Kupala State University of Grodno O. A. Ramanau, the Vice-rector on Scientific Work of the Yanka Kupala State University of Grodno Y. Ramanouski, the Dean of the Faculty of Law of the Yanka Kupala State University of Grodno S. E. Cheburanova, the President of the Center for Information and Research Organization in Public Finance and Tax Law in the Countries of Central and Eastern Europe, the head of the Department of Public Finance and Financial Law of the University of Bialystok E. Ruśkowski, the Chairman of the Organizing Committee of the Conference, Associate Professor of the Department of International Law of the Yanka Kupala State University of Grodno L.Ya. Abramchik addressed the conference participants with a welcome speech.

During the conference were discussed the qualitative changes in identifying individual indicators of financial law problems that depend on society changes. Axiological aspects of financial and legal regulation, the role of financial law and its institutions in the mechanism of management in the countries of the Central and Eastern Europe were addressed. A number of reports were presented by the scientific community of the Central and Eastern Europe, well-known scientists and specialists in the field of public finance, finance and tax law researches. Professor, doctor of Legal Science A.N. Kostyukov (F.M. Dostoevsky State University of Omsk) in the speech "The constitutional values in the financial law" presented the analysis of the constitutional values system (people, their rights and freedoms, democracy, state unity and integrity, the subjects independence of the Russian Federation and municipalities, etc.) in their interaction with elements of financial and legal axiology, and also identified a number of problems of modern constitutional axiology in the financial and legal sphere, pointing out the imperfection of

certain constitutional values in financial law. Professor, doctor of Legal Science, the President of the Center for Information and Research Organization on Public Finance and Tax Law in the Countries of Central and Eastern Europe, the Head of the Department of Public Finance and Financial Law of the University of Bialystok, E. Ruśkowski (the Republic of Poland) noted that financial law tends to change in the report "Constancy and variability of the constitutional values in financial law". This is due to the changes taking place in our public life, politics and economy. It is noteworthy that our ideas about individual values are changing, therefore the axiological approach is relevant in research. Thus, the Constitution of Poland since 1997 contains numerous values related to public finance. However, some values, or their constitutional guarantees, are currently in doubt. As a result of changes in political conditions and management methods, it is proposed to introduce new constitutional values in the field of public finance. Professor, doctor of Legal Science, the Head the of Department of Legal Regulation of Economy and Finances at the Institute of Public Administration and Management of the Russian Presidential Academy of National Economy and Public Administration under the President of the Russian Federation E.V. Chernikova, in her presentation "Axiological aspects of financial activity" proposed to consider the concept of "financial activity of the state and municipalities" as an axiological value in the financial and legal theory of legal regulation of socio-economic relations. Social processes and relations management through finance allows us to consider financial activity as a universal, i.e. suitable for all types of finance, way to manage the economic, political and social life of a society. Professor, doctor of Legal Science, the Dean of the Faculty of Law of the Caspian Public University S.P. Moroz (the Republic of Kazakhstan) presented a report on "Axiology in investment law of the Republic of Kazakhstan", in which she noted the relationship and interaction of public and private categories and institutions in modern legal regulation and stressed the importance of axiological approach in legal research in connection with this trend. Candidate of Law Sciences, the Head of the Financial Law Department of the Russian State University of Justice I.A. Tsindeliani in the report "Axiological aspects of the system of financial law" noted that legal axiology as a scientific direction allows us to consider the legal system of the state as a whole and its individual elements from the point of view of the value foundations separately existing in society and in each individual. Consideration of the state legal system elements through value categories makes it possible to determine the relationship and interdependence of all elements of the legal system. Professor, doctor of Law Science W. Morawski (the Nicholas Copernicus University, the Republic of Poland) in the report "Polycentric interpretation of tax law - principles of conflict resolution" stressed that legal principles, including financial law, are axiological values and direct regulators of public relations by their nature. Principles of tax law in the field of public finance play a role in preventing conflicts of private and public interests in taxation. The principles of tax law should not be identified with the norms of tax law by having regulatory properties, since they are independent legal means of regulation. Professor, doctor of Law Science, the honoured lawyer of the Russian Federation, chief researcher of the Department of Law of the Institute of State and Law of the Russian Academy of Sciences S.V. Zapolsky, interpreting tax law rules based on their mandatory regulatory properties, polycentrism is desirable, has made a report "Scientific grant as an axiological value", in which he showed the need for its legal support based on a particular example of obtaining a scientific grant. Professor, doctor of Legal Science, the Vice-Rector for Economics and Development of the University of Wroclaw W.M. Miemiec (the Republic of Poland), made a report "The sources of financing the budget deficit of local government units due to the changes in the Law on public finances", which raised topical issues of sources of financing the budget deficit of local government units in the Republic of Poland in the light of changes in the Law on public finance. The Professor stated that the changes made to this law make it possible to allocate funds unclaimed during the fiscal year from the total budget calculations of territorial self-government units, which are also a potential source of deficit financing, thus facilitating budget calculation and real control over local government finances at the reporting level. It is not possible to give a full assessment of the changes made to the Law on public finance at this stage, since they will find legal application only in the development and execution of territorial self-government units budgets for 2020. Candidate of Law Sciences, Associate Professor, Associate Professor of the Department of Civil Law and Procedure of the Yanka Kupala State University of Grodno A.M. Vartanyan (the Republic of Belarus) in the speech "On some peculiarities of fulfilment of tax liabilities upon reorganization of a legal entity", disclosed the peculiarities of the institution of reorganization of a legal entity in the performance of tax obligations. The speaker focused on the relationship between the civil and tax legislation in regulating

tax relations and showed the role of succession in the performance of tax obligations. Professor, doctor of Legal Science, the Head of the Department of Financial Law of the Voronezh State University M.V. Sentsova (Karaseva) in the report "The value characteristics of tax law and tax property relations" noted the value characteristics of tax law, emphasized the role of civil law in tax and legal regulation and regulation of tax-related property relations. Civil legislation and civil legal institutions that do not fully correspond to their normative content are applied to relations in the field of taxation that have a special tax-legal nature. And most often this is objectively necessary, since there are no legal norms that allow resolving the situation. In this regard, it is necessary to amend the Civil Code of the Russian Federation in terms of expanding (changing) certain protective institutions content, because the value of these institutions for resolving tax-related situations is very high. Professor, doctor of Legal Science I.V. Bit-Shabo (the Russian State University of Justice) made a presentation on "Trends in the development of legislation in the Russian Federation and Eastern European Countries in the sphere of state social extra-budgetary funds" and noted the main trends in the modernization of the legal framework for social security in the Russian Federation and Eastern European Countries. Based on the analysis of the legislation of Hungary, Bulgaria, Poland, Belarus and other Eastern European Countries, she justified the conclusion about possible changes in the legal regulation of social security in the Russian Federation, while noting possible negative consequences. Professor, doctor of Legal Sciences, Dean of the Faculty of Personnel Management and Public Administration of Public Service and Management Institute of the Russian Presidential Academy of National Economy and Public Administration under the President of the Russian Federation E.U. Kireeva in the report "The system of values in local governance and their implementation in the field of finance" pointed out that the question about the system of values in the law as a whole and its individual sectors in particular appears to be controversial, consensus on set of values and their hierarchy is not formed, however, in recent years increasingly wide range of scholars have been drawn to the subject, which indicates its relevance and importance for the Russian jurisprudence. Value approach to the system of local self-government, according to the scientist, should refract through the prism of constitutional ideals and values enshrined in the preamble of the Constitution and its first Chapter "Foundations of Constitutional Order". Professor, doctor of Law Science, Professor of the Department of Public Finance and Financial Law at the University of Bialystok S. Presnarowicz (the Republic of Poland) in the report "A new model for conducting tax disputes in Poland" focused on the issues of changes in tax law. Currently, the Polish Parliament is working on the adoption of a new general tax law - Tax Ordinance Act. This law, which will come into force on January 1, 2021, provides a number of new legal solutions. In particular, the model for resolving tax disputes is changing, and the period for applying to higher tax authorities will increase from 14 to 30 days. Under certain conditions, the appellate body may be omitted, and a complaint against the first tax instance may be directly filed with the regional administrative court. Candidate of Law Sciences, Associate Professor, Associate Professor of State and Municipal Law Department of Dostoevsky Omsk State University, I.V. Glazunova, dedicated the report "Legal support of Treasury maintenance of the budget" to topical issues of legal support of the mechanism of Treasury maintenance of the budget. Candidate of Law Sciences, Associate Professor of the Department of Business, Competition and Financial Law of the Siberian Federal University E.S. Yefremova in her speech "Tax Optimization and Conflict of Values in the Light of Article 54.1 of the Tax Code of the Russian Federation", noted that the institution of tax optimization has a special value in tax law, as it allows taxpayers to use legal ways to minimize tax payments. Candidate of Law Sciences, Associate Professor, Associate Professor of the Department of International Law of Yanka Kupala State University of Grodno L.Ya. Abramchik (the Republic of Belarus), in the report "Implementation of the principles of tax law in the process of tax administration: axiological aspects" noted that in modern conditions of society, the state development needs to consider societal values. One of the main elements of the effective functioning of the tax system and the economy of the state as a whole is tax administration, so the study of the axiological aspects of applying the principles of tax law in the process of tax administration is relevant and important. Based on the analysis of the system of tax law principles, the speaker justified the conclusion that the state's activities in the field of finance for tax revenue will be effective if there are implemented optimal mechanism of tax administration based on the principles of tax law. Successful tax administration leads to an increase in tax revenues to the budget, reduction of tax offenses, improvement of the investment climate, and ensuring the rights and legitimate interests of participants in tax relations. Professor, doctor of Legal Science, Professor

of the Department of Financial Law of the University of Wroclaw, P. Zawadzka (the Republic of Poland), speaking on "Legal changes in the field of calculating the debt of local governments in Poland", drew attention to changes in legislation in the field of calculating the debt of local governments. Doctor of Legal Science, Associate Professor, Associate Professor of the Department of Financial Law of the University of Wroclaw K. Kopyściańska (Republic of Poland) in the report "Consolidation of the tax system within the framework of income tax on the example of a controlled foreign company (CFC)" drew attention to the fact that the legal norms of the CFC play an important role in the system of Polish tax law, being an effective mechanism in the fight against tax evasion. However, these legal regulations have some shortcomings that make them one of the most obscure and complex in the entire institution of Polish tax law. Candidate of Law Sciences, Associate Professor of the Department of State and Municipal Law of the F.M. Dostoevsky Omsk State University, K.V. Maslov in the report "Tax security as a legal value" pointed out the value characteristics of tax security from the point of view of law, highlighted the essential characteristics of legal values, identified the signs of security as a legal value, disclosed the axiological properties of tax security and, taking them into account, made recommendations for improving legislation. Candidate of Law Sciences, Associate Professor, Associate Professor of the Department of International Law of the Yanka Kupala State University of Grodno, O.N. Shupitskaya (the Republic of Belarus) in the report "The Constitutional Court of the Republic of Belarus and the axiological assessment of financial legislation" drew attention to the issues of evaluating acts of financial legislation from the point of view of the axiological approach and pointed out that this assessment is given by the Constitutional Court of the Republic of Belarus when it carries out its activities.

During the three thematic blocks of the conference – "Axiological aspects of law-making in the financial law of Central and Eastern Europe", "Axiology in Tax Law", "Axiology in budget law, financial law of local government and self-government" - the following speakers were presented: - Dr J. Marczak (University of Lodz, the Republic of Poland) with the report "Institute of Finance: economic determinants of public finance"; - PhD in law, Associate Professor of the Department of Public Finance and Financial Law at the University of Bialystok U. Zawadzka-Pąk (the Republic of Poland) with the report "Value-based Participatory Budgeting in Poland - Successes and Challenges"; - PhD in law, Associate Professor of the Department of Public Finance and Financial Law, University of Bialystok E. Lotko (the Republic of Poland) with the report "The ethical and legal aspects of tax in Poland"; - doctor of Legal Science, Professor, the Head of the Department of Administrative and Financial Law at the Law Faculty of the University of Zielona Góra, A. Gorgol (the Republic of Poland) with the report "Structuring the normative values of tax procedures"; - doctor of Economics, Professor, Head of the Department of Tax Law, Department of State, Municipal Finance and Financial Engineering of the Southern Federal University D.A. Artemenko with the report "The legal support of tax control over the calculation of corporate income tax"; - candidate of Law Sciences E.V. Abbyasova (Center for Unified Expert Service, Saint Petersburg) with the report "Development of financial control in the context of global changes in financial regulation and digitalization of the economy"; - candidate of Law Sciences, Associate Professor, Associate Professor of the Department of Legal Regulation of Economy and Finances at the Institute of Public Administration and Management of the Russian Presidential Academy of National Economy and Public Administration T.A. Nikolaeva with the report "Axiological aspects of constitutional and legal regulation of financial relations"; - candidate of Law Sciences, teacher of the Department of Financial Law, Tax Law and Economics of the Pavol Jozef Šafárik University in Kosice A. Popovich (the Slovak Republic) with the report "Principles and maxims of tax administration, their place in the system of leading values of law and society"; - PhD in law, Associate Professor of the Department of Financial Law and Economics of Masaryk University in Brno D. Šramková (the Czech Republic) with the report "Axiology in tax and customs law"; - PhD in law, Associate Professor of the Department of Financial Law and Economics of the Masaryk University in Brno E. Tomášková (the Czech Republic) with the report "Axioms in budget law on the example of the Czech Republic".

The conference participants were very interested in the reports of young scientists presented during the conference at the section of young scientists. The session was moderated by the Candidate of Law Sciences M. Stoyakova (Pavol Jozef Šafárik University of Kosice, the Slovak Republic). On the meeting were discussed issues related to values in the strategy of customs administration, the right of a tax subject to minimize tax duties, continuity of approaches to analyse financial stability of budget organizations, values in the systems of financial and land law,

tax doctrine in the system of values of tax law, and other axiological aspects of financial law.

The moderator of the discussion on the main report was a Candidate of Law Sciences, Associate Professor of the Yanka Kupala State University of Grodno L.Ya. Abramchik (the Republic of Belarus). The conference ended with a summary of the results. Modern axiological problems of constitutional, financial, municipal, land and customs law of Belarus, Russia, Poland, the Czech Republic, Slovakia, and Kazakhstan were discussed, as well as ways to resolve them.

In the framework of the conference was organized a meeting of the Center for Information and Research Organization in Public Finance and Tax Law of in the Countries of Central and Eastern Europe, during which were elected governing bodies for a new period and proposed development directions of the Center.

The collection of scientific articles "Axiology in the financial law of Central and Eastern European States" (Grodno, 2019) was published. The decision to conduct a scientific study of the problems raised at the conference and prepare a collective monograph was made.

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REPORT ON THE XIX INTERNATIONAL CONFERENCE "PANDEMIC AND GOVERNANCE - TOWARDS AN APPROXIMATION OF COVID-19's LEGAL, ADMINISTRATIVE, FISCAL AND POLITICAL DILEMMAS" (5-6 NOVEMBER 2020, BUDAPEST, HUNGARY)

On 5th and 6th November 2020, in joint cooperation of the Faculty of Public Governance and International Studies of the University of Public Service in Budapest and the Center for Public Finance of Central and Eastern Europe (CPFCEE), Faculty of Law of the University in Bialystok, an international conference was held, entitled: Pandemic and Governance – Towards an Approximation of Covid-19's Legal, Administrative, Fiscal and Political Dilemmas. As part of the conference, on the second conference day also PhD students and young scientists' seminar was organized. The conference had both English and Russian panel.

The conference was organized due to the global outbreak of a new coronavirus, COVID-19. In order to slow down the spread of the disease governments throughout the world introduced a variety of regulations from several forms of social distancing to provisional quarantine. These measures turned normal state operations completely upside down, affecting several segments and aspects of governance, local administration, residential liberties, fiscal policies and national and global politics at large. Key research areas are the trends and changes in legal and administrative solutions regarding the changes in public financing and fiscal models in connection with the pandemic.

In line with the expectations of the organizers, the conference provided a scientific forum for the participants of the event, consolidating in all respects heterogeneous academic environment and presenting an interdisciplinary approach. The interdisciplinary and heterogeneous nature of the conference is well illustrated by the diverse origin of participants and multiplicity of issues examined: in addition to the EU issues, considerations on the Middle East and Russia and the disciplinary attachment of speakers: from public finance and fiscal theories to government ethics, up to decision and game theory, various governance theory and public finance issues related to the coronavirus have been addressed. It was a special pleasure for the organizers that doctoral students were able to discuss their theses with professors from renowned research institutions.

Pandemic and Governance

Towards an Approximation of Covid-19's Legal, Administrative, Fiscal and Political Dilemmas

Day 1 (5th November 2020)

The Conference is scheduled in Central European Time (UTC+1)

10:00—10:15 **Péter Smuk** (University of Public Service) & **Mariusz Popławski** (University of Bialystok) : *Conference opening*

English Panels

Chairs: Gábor Hulkó & Ákos Tussay

10:15—10:45 **Saqer Sulaiman** (University of Public Service) : *Governance of Coronavirus Crisis*

10:45—11:15 **Anastasiia Novikova** (University of Public Service) : *"Soft Power" or "Hard Measures": How did Covid-19 Affect Nation Branding?*

11:15—11:45 **Magdolna Csath** (University of Public Service): *The pandemic and the economy: how the „next normal" will look like?*

11:45—12:00 *Break*

12:00—12:30 **Raphael Cohen-Almagor** (University of Hull): *Track and Trace in Israel: Promoting Health Rights and Invading Privacy Right*

12:30—13:00 **Anne Lykkeskov** (University of Copenhagen): *Ethical implications of shifting decision-making authority from health experts to politicians: the case of Denmark*

13:00—13:30 **Péter Klotz** (University of Public Service): *Financial dilemmas in the time of Covid-19*

13:30—13:45 *Break*

13:45—14:15 **Kirill Maslov** (Dostoevsky Omsk State University): *Methods of tax risk governance in the context of COVID-19 pandemic*

14:15—14:45 **M. Radvan** & **S. Papavasilevská** (Masaryk University): *Abolition of Tax on Acquisition of Immovable Property: A Tool to Suppress the Negative* Consequences of Covid

14:45—15:15 **Dana Šrámková** (Masaryk University): *Tax Changes as a Way of Helping Czech Entrepreneurs During a Pandemic*

15:15—15:30 *Break*

15:30—16:00 **Viktor Marsai** (University of Public Service): *Ruling the Bush: The challenge of COVID-19 for ungoverned territories in Africa*

16:00—16:30 **Jason J. Howard** (Viterbo University): *Covid-19 and the conditions of political liberation: the Pandemic as "Event"*

16:30—17:00 **Erhan Aygün** (University of Public Service): *Migration management in Turkey during the pandemic*

Russian Panels

Chairs: TBD

10:15—10:45 **M. Popławski** (University of Bialystok) & **M. Charkiewicz**: *Prolonging payment deadlines of real estate tax installments to entrepreneurs in connection with COVID in Poland*

10:45—11:15 **Elena Kireeva** (RANEPA): *Measures of state regulation of the economy of the Russian Federation in the context of the pandemic*

11:15—11:45 **Elena Chernikova** (RANEPA): *Surreal impact of Covid-19 on financial and legal realities*

11:45—12:00 *Break*

12:00—12:30 **Liliya Abramchik** (Yanka Kupala State University of Grodno): *Tax measures to support business before a pandemic in the Republic of Belarus*

12:30—13:00 **Yulia Ledneva** (ILCL): *Covid-19: financial support for small and medium enterprises in Russia*

13:00—13:30 **Ewelina Bobrus-Nowińska** (University of Bialystok): *The impact of the Anti-Crisis Shield on the limitation periods for tax liabilities*

Pandemic and Governance

Towards an Approximation of Covid-19's Legal, Administrative, Fiscal and Political Dilemmas

Day 2 (6th November 2020)

The Conference is scheduled in Central European Time (UTC+1)

10:00—10:15	**Mariusz Popławski** (University of Bialystok): *conference opening*
10:15—10:35	**A. Popovič** & **L. Hrabčák** (Pavol Jozef Šafárik University): *Post COVID-19 world and potential compensatory tax instruments in the context of the digital economy*
10:35—10:55	**Ekaterina Kosiuk** (University of Public Service): *Impact of COVID-19 on Civil and Political Rights*
10:55—11:15	**Natália Antušová** (Pavol Jozef Šafárik University): *Taxable person as an element of an European digital services tax*
11:15—11:30	*Break*
11:30—11:50	**Sofian Bouhlel** (University of Public Service): *Role of the Hungarian Local Governance in Responding to COVID-19 Crisis*
11:50—12:10	**Ekaterina Popova** (University of Public Service): *The Urge of Vaccine: COVID-19, Immigrants and Nationalism in Hungary*
12:10—12:30	**Jiří Kappel** (Masaryk University): *Impact of Pandemic in Context of the Czech Interest Deductibility Limitation Rules*
12:30—12:50	**Anna Urbanovics** (University of Public Service): *Communication of Covid-19 in the Mediterranean region - a social media content analysis*
12:50—13:05	*Break*
13:05—13:25	**Monika Stojáková** (Pavol Jozef Šafárik University): *Covid-19 and the "Digital Services Tax" : Loss of Political Attention?*
13:25—13:45	**Ola Majthoub** (University of Public Service): *Navigating the Way Forward and Survive the Crisis*
13:45—14:05	**Jozef Sábo** (Pavol Jozef Šafárik University): *Taxation of robots: back to the future?*
14:05—14:25	**Viktória L. Pató** (University of Public Service): *New paths of digital policies as a positive effect of the COVID-19 pandemic in the European Union*

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REPORT OF THE SECOND EASTERN EUROPEAN CONFERENCE ON CRYPTOCURRENCIES (4 MARCH 2019, BIAŁYSTOK, POLAND)

On March 4, 2019, at the Faculty of Law of the University of Bialystok took place the Second Eastern European Conference on Cryptocurrencies organized by the Scientific Circle of Financial Law, Scientific Circle of Commercial Law and Scientific Circle of Tax Law operating at the Faculty of Law of the University of Bialystok. The conference was covered by the Honorary Patronage of the Ministry of Science and Higher Education, Marshal of the Podlasie Voivodship Artur Kosicki, Podlasie Voivode Bohdan Paszkowski and the Rector of the University of Bialystok prof. dr hab. Robert W. Ciborowski. Among the Honorary Patrons of the event were also the Deputy Marshal of the Podlasie Voivodeship Stanisław Derehajło, the Temida 2 Publishing House and Euronet Norbert Saniewski sp. j., which enabled to show a machine digging cryptocurrency, i.e. the so-called cryptocurrency excavator.

The conference began at 9:00 in the Hall of the Faculty of Law and was opened by prof. zw. dr hab. Ewa Monika Guzik - Makaruk, Deputy Dean for Science of the Faculty of Law, and prof. dr hab. Eugeniusz Ruśkowski, head of the Department of Public Finance and Financial Law and the Supervisor of the Scientific Circle of Financial Law. After the presentation and welcome of the invited guests, the substantive part of the conference began, divided into expert panels led by dr Ewa Lotko and dr Urszula Zawadzka-Pąk from the Department of Public Finance and Financial Law, and doctoral and student panels led by Magdalena Olchanowska, Ewelina Marcińczyk and Hanna Deilidka - representatives of the Scientific Circle of Financial Law.

The lecture opening the conference "Using cryptocurrencies in money laundering" was given by dr hab. Wojciech Filipkowski, prof. UwB, representing the Department of Criminal Law and Criminology at the Faculty of Law, UwB. In his speech, prof. Filipkowski referred to threats resulting from the popularity of cryptocurrencies transformed into a tool for committing crimes.

Another speech at the expert panel of the conference was by dr hab. Sławomir Presnarowicz, prof. UwB from the Department of Public Finance and Financial Law at the Faculty of Law of the University of Bialystok, entitled "Cryptocurrencies in Poland in 2019 - selected tax aspects". The idea behind the presentation was to show this issue based on an outline of the changes that have occurred in recent months as a result of interest of tax administration in cryptocurrencies.

Then the next speaker was mgr Grzegorz Jarosiewicz, representing the Tax Department at the Faculty of Law, who delivered a lecture entitled "Legal regulations concerning taxation of virtual currencies trading". In his speech, mgr Jarosiewicz presented all issues raising questions about the tax treatment of cryptocurrencies.

Next lecture was given by prof. Olga Lutova from N.I. Lobachevsky State University in Nizhny Novgorod (Russia) "Cryptocurrencies in the Russian Federation", in which she presented the situation of virtual money in the Russian system.

Another speaker - prof. Aleksander Morozov (also from the N.I. Lobachevsky State University of in Nizhny

Novgorod) - presented his speech entitled "Existing approaches to legal regulation of cryptocurrency taxation in the Russian jurisdiction", from which it was possible to draw differences between the Polish and Russian system of virtual money taxation.

Next lecture "Cryptocurrency: problematic aspects of legal regulation" delivered by prof. Imed Tsindeliani from the Russian Academy of Justice in Moscow focused on obstacles to recognise crypto-currency by the legislature.

Then a lecture entitled "Cryptocurrency and state sovereignty" was presented by prof. Dmitry Szczerbik from the Polotsk State University in Polotsk, in which he presented possible disturbances in the state relationship with the newly created type of coins.

Another speaker was also a representative of the Polotsk State University. Professor Aliaksej Radziuk delivered a lecture entitled "The Social Impact of Cryptocurrency Experiment in Belarus" thanks to which it was possible to learn how bitcoin influenced the Belarusian society and what were their first reactions to entering the crypto market.

The last speech of the expert panel was by prof. Ryma Kluczko (Yanka Kupala State University of Grodno) "Criminal legal assessment of crimes involving cryptocurrency". The lecture focused on the possible use of cryptocurrencies in the broadly defined crime, presenting the most serious threats associated with it.

The expert panel ended at 12:10, then the second part of the conference began, during which doctoral students gave their speeches.

The first presentation in this part was delivered by mgr Maksymilian Szal, a PhD student at the Department of Civil and Commercial Law at the Faculty of Law, entitled "Cryptocurrencies as the subject of contribution to a commercial company". Other PhD students who took part in the conference included representatives of universities from Poland and abroad:

- Masaryk University in Brno (Czech Republic) – mgr Richard Bartes ("Selected legal aspects of cryptocurrencies in the Czech Republic")
- Polotsk State University (Belarus) – mgr Viktoria Dorina ("International legal regulation of cryptocurrencies"), mgr Pavel Salauyou ("Legal regulation of Blockchain technology and cryptocurrency: the problem of choosing lawmaking strategies")
- University of Wroclaw – mgr Łukasz Cymbaluk ("Political implications of cryptocurrencies")
- Cardinal Stefan Wyszyński University in Warsaw – mgr Sylwia Szutko ("Consequences of new taxation rules for cryptocurrencies and qualify income from virtual currency trading to income from cash capitals"), mgr Ida Jóźwiak ("Cryptocurrencies as the subject of regulations in the field of counteracting money laundering and terrorism financing")
- University of Warsaw – mgr Katarzyna Ziółkowska ("ICO and crypto-assets in the EU regulatory framework - conclusions from the position of the European Securities and Markets Authority published on January 9, 2019"), mgr Konrad Sukojaj ("Taxation of trading in cryptocurrencies with tax on goods and services")
- Maria Curie-Skłodowska University in Lublin – mgr Maciej Błotnicki ("Selected aspects of the functioning of virtual currencies on the basis of applicable criminal law regulations - adequacy, or lack thereof in the proper protection of legal goods in the 21st century?")
- The Jagiellonian University in Kraków – mgr Wiktor Podsiadło ("Taxation of virtual currencies, tax on natural persons")
- University of Bialystok – mgr Cezary Pachnik ("Cryptocurrency as an instrument for the pursuit of autonomy or independence of indigenous peoples and national minorities in the light of the principles of international law"), mgr Izabela Grens - Trykoszko ("Bitcoin as an object of property security"), mgr Paweł Szorc ("Regulations on protection of personal data as a barrier to the development of blockchain and cryptocurrency technologies"), mgr Katarzyna Jarnutowska ("Cryptocurrencies as an object of private law relations"), mgr Magdalena Anna Kropiwnicka ("What is bitcoin? Legal character of bitcoin"), mgr Justyna Omeljaniuk ("Cryptocurrencies as subject of crime"), mgr Paweł Czaplicki ("Initial Coin Offering - legal aspects of capital acquisition by entrepreneurs using digital currencies"), mgr Agnieszka Godlewska and mgr Paulina Grodzka ("Taxation of cryptocurrencies and tax honesty"), mgr Łukasz Presnarowicz ("Actions of the Office of Competition and Consumer Protection in the field of cryptocurrency").

The doctoral panel ended at 15:00 followed by a lunch break, which lasted until 16:00. Then a practical panel discussion started.

The speeches ended at 17:00 and then a 10 minutes coffee break began. At 17:10 the student panel started, during which representatives of both foreign and Polish universities were also present:

- Polotsk State University (Belarus) – Palina Kavalchuk ("Using cryptocurrency in Belarus")
- Siedlce University of Natural Sciences and Humanities - Dominik Kowalczyk ("Cryptocurrencies and threats that they introduce to social security")
- Nicolaus Copernicus University in Torun - Paulina Wysocka ("Money laundering and cryptocurrencies"), Jakub Rolirad ("Cryptocurrencies as an excellent thesaurization of property or a financial pyramid?")
- University of Lodz - Agnieszka Sobierajska ("Legal aspects of tokens - civil law analysis including personal tokens")
- Maria Curie-Skłodowska University in Lublin - Piotr Jackiewicz, Dominika Gozdalska ("Legal and tax aspects of cryptocurrencies in the Republic of Poland")
- University of Warsaw - Ewa Tokarewicz ("Prudence or short-sightedness - about the approach of a Polish employer to cryptocurrency on the example of tax on civil law transactions"), Filip Sobociński ("Is the token equity issue a public offer?"), Kamil Węgliński ("Cryptocurrencies - groundbreaking technology of the Internet")
- Odessa (Ukraine) - Masenko Yaroslav ("EOS - Blockchain 3.0")
- Minsk (Belarus) - Alina Bańkowskaja ("Cryptocurrencies: a role in the modern world"), Kiril Kozal ("Cryptocurrency and Bitcoin. Money of the new generation"), Daria Umanskaja ("Prospects for recognition and development of cryptocurrencies in European countries"), Julia Karazej ("Perspectives of using cryptocurrencies in the legal sphere")
- Turkey (Erasmus student at University of Białystok) - Abdullah Bahçe ("Big increase in interest in bitcoin in Turkey - the fall of the lira"), Onur Duran ("Currency crisis, and the introduction of the crypto-currency exchange"), Elif Sila Cesur ("Solutions for introducing cryptocurrencies"), Burhan Budak ("Abduction of cryptoblogs - forensic aspects of cryptocurrencies trading"), Barış Gökler ("Bitcoin vs. alcony – comparison")
- University of Bialystok - Bartłomiej Korolczuk ("Potential of the Blockchain Model")

After thanking all invited guests as well as all participants of the conference, the conference was closed at 20:40 by Magdalena Olchanowska, president of the Scientific Circle of Financial Law.

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THE SCIENTIFIC ACTIVITY OF THE FACULTY OF LAW AT THE UNIVERSITY OF BIAŁYSTOK ASSOCIATED WITH THE COUNTRY OF CENTRAL AND EASTERN EUROPE

Among scientific activity connected with research connected by Faculty of Law University of Bialystok in 2019 and 2020 the following publications, lectures and participation in international projects can be mentioned.

THE SCIENTIFIC ACTIVITY:

- Conference "Developments in Family Law - Year by year" organized by ELTE University and Ministry of Justice, Hungary, 13rd-15th of January 2019
  - **dr hab. Piotr Fiedorczyk, prof. UwB**
- Conference organized by the Russian Academy under the President of the Russian Federation, 14th-16th of January 2019
  - **dr hab. Sławomir Presnarowicz, prof. UwB** – "Handling of tax disputes in Poland"
- I Polish-Ukrainian scientific seminar "Modern challenges of justice in the European legal area", organized by the Department of European Law, Faculty of Law University of Białystok, Poland, 19th of February 2019
  - **dr hab. Mieczysława Zdanowicz, prof. UwB** – "Alternative Dispute Resolution"
  - **dr hab. Anna Doliwa-Klepacka** – "Alternative Dispute Resolution in the Regulations of the European Union"
- Conference "From Theory to Practice in Language for Specific Purposes" organized by Association of Language for Specific Purposes Teachers at Higher Education Institutions, Croatia, 20th-23rd of February 2019
  - **dr Halina Sierocka** – "Creating didactic materials to learn specialist languages available online"
- XXI International Scientific and Practical Conference organized by Yanka Kupala Grodno State University, Belarus, 6th of March 2019
  - **prof. dr hab. Ewa M. Guzik-Makaruk**
  - **prof. dr hab. Emil W. Pływaczewski**
  - **prof. dr hab. Eugeniusz Ruśkowski, mgr Marta Maksimczuk** – "System of public finance control in Poland"
  - **dr hab. Jarosław Matwiejuk** – "Basic rules of the constitutional system in the Republic of Poland and the Republic of Belarus"
  - **mgr Ewelina Wojewoda**
  - **mgr Paulina Pawluczuk-Bućko**
  - **mgr Aleksandra Stachelska**
- Conference organized by the Russian Academy of National Economy and Public Administration under the President of the Russian Federation in Moscow, 17th-19th of March 2019
  - **dr hab. Sławomir Presnarowicz, prof. UwB –** "Appealing tax decisions in Poland and in Russia - selected problems"
- International Polish-Belarusian Law School, University of Białystok, Yanka Kupala State University of Grodno, 1st-6th of April 2019
  - **prof. dr hab. Katarzyna Laskowska** – Criminal Law
  - **dr hab. Jarosław Matwiejuk** – Constitutional Law

- **mgr Marta Maksimczuk** – Financial Law

- Conference "From the Lublin Union to the European Union" organized by the Association of Lithuanian Polish Scientists, Lithuania, 25th-27th of April 2019
  - **dr Tomasz Dubowski** – "EU foreign policy - legal and institutional conditions of development"
- XIX International Scientific Conference for Students, Masters and PhD Students "MODERNIZATION OF LEGAL SYSTEMS FOR SUSTAINABLE DEVELOPMENT OF SOCIETY", Faculty of Law Yanka Kupala Grodno State University, 26th of April 2019
  - **mgr Marta Maksimczuk –** "Finance of health care in Poland"
- Symposium "Education and City 2019" organized by Moscow City University,15th-18th of May 2019
  - **dr Anna de Ambrosis Vigna** – "The legal framework of participation practices in education in case of Poland"
- XII International Scientific Seminar for Students, Masters and PhD students "CURRENT PROBLEMS OF FINANCIAL LAW", Yanka Kupala Grodno State University, Belarus State University, Voronezh State University, University of Bialystok 21st of May 2019
  - **mgr Marta Maksimczuk –** "Legal and Financial Aspects of Healthcare in the Republic of Poland"
- International Polish-Ukrainian Law School, University of Białystok, Ukrainian Academy of Public Administration by the President of Ukraine - Odessa Regional Institute of Public Administration, 20th -24th of May 2019
  - **prof. dr hab. Katarzyna Laskowska** – Criminal Law
  - **dr hab. Jarosław Matwiejuk** – Constitutional Law
  - **mgr Marta Maksimczuk** – Financial Law
- International scientific "Migration problems in Europe and ways of solving them" organized by the I. Kant Baltic Federal University in Kaliningrad, the Institute of Europe of the Russian Academy of Sciences, the Ebert Fund, the Institute of Linguistic and Migration Processes at the Fund "Russian World", the Association for European Studies, Kaliningrad - Yantarnyi 30th of May- 1st of June 2019
  - **dr hab. Mieczysława Zdanowicz, prof. UwB** – "The Polish position towards the refugee-migration crisis in the European Union"
  - **dr Anna Doliwa-Klepacka** – "EU legal regulation in the field of migration - general challenges"
- Conference "Virtual reality of modern world: possibilities and threats" organized by Lviv National University, 16th-19th of June 2019
  - **mgr Marta Dąbrowska**, **mgr Marta Dzieniszewska** – "Criminological view on cyber threats among juveniles"
  - **mgr Aleksandra Stachelska** – "Virtual assistants - possibilities and threats - criminal and criminological perspective"
- XXXII International Baltic Criminological Seminar "Social control of crime: what to do?" organized by A. Herzen State Pedagogical University in St. Petersburg, 21st-22nd of June 2019
  - **prof. dr. hab. Katarzyna Laskowska** – "Social pathologies of a criminogenic nature in Poland. How to counteract and limit them?"
- Nanterre Network Annual Meeting 2019, European Network of University Cooperation in Legal Science (Nanterre Network Annual Conference) organized by Vilnius University, Lithuania, 26th-29th of June 2019
  - **prof. dr hab. Ewa M. Guzik-Makaruk, prof. dr hab. Emil W. Pływaczewski** – "Faculty of Law University of Bialystok - yesterday, today, tomorrow"
  - **dr Emilia M. Truskolaska** – "Influence of homelessness on migration"
  - **mgr Karolina Zapolska** – "Economic freedom in EU"
- XXIV Conference Central European Political Science Association organized in Pechu, Hungary, 25th-29th of September 2019
  - **dr hab. Elżbieta Kużelewska, prof. UwB** – "Same-sex marriages referendum in Central Eastern European Countries"
  - **dr Dariusz Kużelewski** – "Changes in the judiciary and prosecutor's office as a threat to liberal democracy in Poland"
- International Scientists Conference "Pandemic and Governance: Towards an Approximation of COVID-19's Legal, Administrative, Fiscal and Political Dilemmas", Faculty of Public Governance and International Studies, National University of Public Service, Budapest, Center for Information and Organization of Research on Public Finance and Tax Law in Central and

Eastern, Faculty of Law University od Białystok, 5th-6th of November 2020, Białystok- Budapeszt
  - **dr hab. Urszula K. Zawadzka-Pąk** – chair of English Panels
  - **prof. dr hab. Eugeniusz Ruśkowski, dr Ewa Lotko, mgr Marta Maksimczuk** – chairs of Russian Panels
  - **prof. dr hab. Mariusz Popławski, dr Mariusz Charkiewicz** – "Prolonging payment deadlines of real estate tax installments to entrepreneur's connection with COVID in Poland"

- Russian Scientific-practical Roundtable
  - **prof. dr hab. Katarzyna Laskowska** – "Criminal and criminological problems of counteracting crime in the sports sphere" Russian State University of Justice, St. Petersburg, 31th of September 2020 ("Corruption in sport in Poland-legal and criminological aspects)

SCIENTIFIC AND DIDACTIC ACTIVITIES ABROAD AND ERASMUS+:

- **mgr Marta Maksimczuk** – Research Internship at the Institute of International Economic Relations, I. Franko National University of Lviv, 11st-17th of February 2019
- **dr hab. Jarosław Matwiejuk** – "Polish-Belarusian Law School" organized by Grodno State University named after Yanka Kupala and the University of Bialystok, 31st of March - 4th of April 2019
- **dr Andrzej Jackiewicz** – Lectures at Smolensk University, 31st of March - 6th of April 2019
- **dr Artur Olechno** – Erasmus +, Smolensk University, 31st of March - 6th of April 2019
- **dr hab. Mieczysława Zdanowicz, prof. UwB** – Erasmus +, E. Kant Federal State University, 7th -13th of April 2019
- **dr Halina Sierocka** – Erasmus +, Split University, 10th-16th of June 2019
- **dr hab. Elżbieta Kużelewska, prof. UwB, dr Dariusz Kużelewski** – Erasmus+ University of National and World Economy, Bulgaria, 6th-22nd of July 2019
- **mgr Marta Maksimczuk** – Summer School "EU-EU Dialogue: HoReCa" Management and Marketing Faculty of Economics and Management Yanka Kupala State University of Grodno, 8th-22th of July 2019
- **prof. dr. hab. Piotr Niczyporuk** – Lectures "Banking institutions of the European Union" and "Banking operations in historical development" at Omsk State University Russian Federation, 10th of September 2019
- **mgr Marta Maksimczuk** – Research Internship at the Faculty of Economics and Management Yanka Kupala State University of Grodno, 16th – 30th of September 2019
- **dr Halina Sierocka** – visiting professor, Suleymana Demirela University, Kazakhstan, 3rd-15th of February 2020
- **dr Izabela Kraśnicka** – kick–off meeting project Erasmus University of Montenegro, Montenegro, 23rd-24th of February 2020
- **dr hab. Tomasz Dubowski –** participant, College of Visegrád + Scientific and Executive Committee organized by National of Public Service, Hungary, 27th-28th of February 2020
- **dr hab. A. Doliwa, prof. UwB** – Scientific Project Menager "Procurement of services through direct placement procedure to support decentralisation reform in Ukraine"
- **dr Maria Cudowska** – Erasmus +, Vytautas Magnus University, Lithuania 24th-27th of November 2020

PUBLICATIONS:

- **Laskowska K.**, Ugolovnaâ politika Pol'ši v otvečestvenii lic, soveršaûših domašnee (in:) Ugolovnaâ politika i pravoprimenitel'naâ praktika: sbornik materialov VII-oj naučno-praktičeskoj konferencii (1-2 noâbrâ 2019 goda, Sankt-Peterburg), D.S. Umaroviča (eds.), Sankt-Peterburg, Asterion, 2019
- **Bobrus-Nowińska E., Woltanowski P., Zawadzka-Pąk U.,** (in:) European financial law in times of crisis of the European Union, G. Hulkó, R. Vybíral (eds.), Budapest, Dialóg Campus, 2019
- **Kraśnicka I., De Ambrosis Vigna A.**, Reforma sistemy obrazovaniâ mestnogo samoupravleniâ v sfere obrazovaniâ (in:) Upravlenie sistemoj obrazovaniâ na raznyh urovnâh #b$ vertikal' vlasti, transfer polnomočij i regional'noe sotrudničestvo, Â. de Grofa, S. V. Ânkeviča (eds.), Moskva, Izdatel'skij dom Vyssej školy ekonomiki, 2019
- **Kołodko P., Niczyporuk P.**, Le sanzioni penali comminate sui banchieri romani (in:) Perpauca terrena blande honori dedicata pocta Petrovi Blahovi

k nedozitým 80. Narodeninám, V. Vladár (ed.), Trnava, Trnavská univerzita v Trnave. Právnická fakulta, 2019
- **Laskowska K.**, Domašnee nasilie v Pol'še. Pravovaâ institucional'naâ reakciâ na âvlenie (in:) Rol' prava v razviti integracionnyh processov v Aziatsko-Tihookeanskom regionie, sost.: N.G. Prisekina, Vladivostok, Izdatel'stvo DVFU, 2020
- **Dowgier R., Etel L., Popławski M., Tyniewicki M.,** (in:) The financial law towards challenges of the XXI century. Conference proceedings, P. Mrkývka (eds.) Brno, Masaryk Univeristy Press, 2020
- **Matwiejuk J.,** Reforma territorisl'nogo samoupravleniâ v Respublike Pol'ša (in:) Ûridičeskaâ nauka, zakonodatel'stvo i pravoprimenitel'naâ praktika. Zakonomernosti i tendencii razvitiâ. Cz. 1., S.E. Čeburanova (ed.). Grodno, GrGU Y. Kupaly, 2020

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NEW SERIES OF PUBLICATIONS WORKS OF EMINENT POLISH REPRESENTATIVES OF FINANCIAL LAW

źródło: www.czuma.pl

At the scientific conference held on 18-20 September 2019 in Grodno (Belarus), Prof. Marina Karasieva (Sentsova), the Chairwoman of the Program Council of the "Center for Information and Research Organization in Public Finance and Tax Law in the Countries of Central and Eastern Europe", reported the idea to publish in Russian, within the framework of the activity of the Center, works of prominent Polish representatives of financial and tax law. After a long discussion on the choice of the first work in the series, it was decided to accept the proposal of dr hab. Janusz Stankiewcz, i.e. the edition of the book by the outstanding Polish scholar and politician, Prof. Ignacy Czuma, entitled *"The Balance of the Budget compared to the budget law of different countries"*. The book was published in Lublin in 1924. Dr hab. Janusz Stankiewicz also made available his copy of the above work by Prof. Ignacy Czuma for translation into Russian and publication in print. The permission for the publication of the work in the presented form (under certain conditions) was given by the sons of the scholar, Benedykt and Andrzej Czuma.

On this occasion, it is worth recalling the remarkable personality of the great Polish patriot and scholar, Professor Ignacy Czuma, his life and scientific, social and political activity. Ignacy Czuma was born on 22 October 1891 in Niepołomice near Kraków, he came from a peasant family. In 1912, he started studying law at the Jagiellonian University, which was interrupted by the First World War. Between 1914 and 1915 he served in the Austro-Hungarian Army and was a Russian prisoner of war between 1915 and 1919. After his service in the Polish Army in 1920, he resumed studies at the Faculty of Law of the Jagiellonian University, which he completed in 1922 with a PhD. In 1925, he was awarded the degree of Habilitated Doctor for the above mentioned dissertation *"The Balance of the Budget compared to the budget law of different countries"*. In 1922, Ignacy Czuma started his professional career at the Department of Treasury and Fiscal Law at the Catholic University of Lublin, where he remained until the end of his academic career. Initially a deputy professor of fiscal science and legislation, he was promoted to associate professor in 1927 and to full professor in 1930 at the Faculty

of Law and Socio-Economic Sciences of the Catholic University of Lublin. Between 1926 and 1928 he was the Dean of the Faculty of Law and Socio-Economic Sciences, and between 1938 and 1939 he was the Vice-Chancellor of the Catholic University of Lublin. On 11 November 1939 he was imprisoned by the Gestapo and placed in the Lublin Castle, where he remained until March 1940. Released due to the intervention of the International Red Cross, he returned to Niepołomice, where he conducted secret teaching and other forms of underground activity. In 1950, he was arrested by the Security Service and sentenced to 10 years in prison. Released in 1953 with a prohibition of professional work, he resumed it only after the political changes, being a professor at the Catholic University of Lublin in the years 1957-1960. As a social and political activist Ignacy Czuma founded and was the first president of the Polish Economic Society in Lublin, president of the Polish Western Union for Lublin and Wolyn Province, president of the Anti-Bolshevik League. In the years 1930-1935 he was a deputy to the Sejm for the Non-Partisan Block for Cooperation with the Government. He was a co-author of the first ten articles of the April Constitution (1935) and the author of the provision indicating president's responsibility before God. In 1949, he received the title of Papal Chamberlain from Pius XII. Earlier, in 1935, he was awarded the Commander's Cross of the Order of Polonia Restituta.

Ignacy Czuma is known for his numerous scientific works in the field of law, especially fiscal law and treasury, constitutional law, economics, political science, philosophy and ethics. In these works he presented a thomistic attitude based on the Catholic social doctrine and recognition of absolute justice and morality, permeating all beings and goods. In addition to the above-mentioned work "*The Balance of the Budget compared to the budget law of different countries*" (1924), the following works also deserve special attention: "*Systemic Absolutism*" (1934), "*Responsibility of the President*" (1932), "*Systemic Basis of Treasury in the context of the April Constitution*" (1937). He was a supporter of the family protection in tax law (see his work "*Legal Reforms for the Family Protection*") (1936). His highly critical works on the communist system and state as well as the fascist system of the Third Reich should also be noted. Ignacy Czuma died on 18 April 1963 in Lublin.

CASPIAN UNIVERSITY
IN ALMATY (KAZAKHSTAN)

CENTRE FOR INFORMATION AND RESEARCH ORGANISATION IN PUBLIC FINANCE AND TAX LAW OF CENTRAL AND EASTERN EUROPE

Information on the 20th Centre for Information and Research Organisation in Public Finance and Tax Law of Central and Eastern Europe international scientific conference, 23-24 September 2021, Almaty (Kazakhstan) which will be held in hybrid mode (both physical and virtual attendance).

CONFERENCE TOPIC:

Functioning of investments financed from state resources and from other sources in the countries of Central and Eastern Europe.

Sample topics on which we encourage you to send papers and discussion materials:

- funding investments from domestic and foreign sources (including the European Union),
- public procurement system and other public investment organisation systems,
- foreign investment protection (system of bilateral investment agreements),
- stimulating function of taxes,
- taxation of capital income,
- public-private partnership,
- public assistance,
- control of investment expenditures,
- impact of public investment on debt and public deficit,
- the role of society in consulting of investment and spatial planning,
- axiological problems (including corruption-stimulating factors),
- foreign investment legal system,
- characteristics of investment activity legal regulations in Eurasian Economic Union member states,
- protection of investor rights,
- investment contracts,
- foreign investment legal regulations,
- investment dispute resolution,
- public and private investment,
- government investment support,
- characteristics of investment implementation in specific economic sectors,
- liability in investment law,
- taxation of investments,
- investment and financial law.

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I PRAWA PODATKOWEGO KRAJÓW
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