

A summary of professional accomplishments

1. Name: MARIUSZ POPLAWSKI

2. Diplomas, academic/artistic diplomas: names, places and types of their obtaining and the title of the doctoral thesis

- diploma of Master of Law at the Department of Law of the University of Bialystok in 1999 (Master thesis: A tax decision as a result of tax proceedings in the personal income tax)
- degree of Doctor of Juridical Sciences in law obtained at the Department of Law of the University of Bialystok in 2003 (Doctoral thesis: The local tax law, faculty supervisor: Dr hab. Leonard Etel, reviewers Professor Dr hab. Eugeniusz Ruśkowski, Dr hab Zbigniew Ofiarski)

3. Information on the career in academic/artistic institutions

- 1 October 1999 – 30 September 2001: doctoral studies at the Department of Law of the University of Bialystok
- 1 October 2001 – 30 September 2003: research assistant at the Department of Law of the University of Bialystok
- 1 October 2003 – present: assistant professor at the Department of Law of the University of Bialystok
- 1 April 2003 – 31 May 2006: assistant professor at Wszechnica Mazurska (Masurian Higher School) in Olecko
- 1 October 2003 – 30 September 2005: lecturer at the Higher School of Finance and Management in Siedlce,

4. Selected accomplishments resulting from Article 16 para 2 of the Act of 14 March 2003 on academic degrees and the academic title as well as degrees and titles in the field of arts (Dz.U. Nr 65, item 595 with amendments)

4.1. Among the academic accomplishments which, in my opinion, meet the criteria determined in Article 16 para 2 of the Act of 14 March 2003 on academic degrees and the academic title as well as degrees and titles in the field of arts (Dz.U. Nr 65, item 595 with amendments), i.e. were obtained after the doctoral degree and make up a considerable contribution to the development of a particular academic field, the following should be named:

- **monograph: M. Popławski, Uchwały podatkowe w nadzorze regionalnych izb obrachunkowych (Tax resolutions in the supervision of regional accounting chambers), Warsaw 2011, pp. 297,**
- **monograph: M. Popławski, Instytucje zwrotu podatku. Charakter prawny i funkcjonowanie (Institutions of tax refund. Legal nature and functioning), Warsaw 2009, pp. 144,**
- **monothematic cycle of publications, which was titled for the purposes of this presentation: Reflections on the institution of tax refund.¹ It consists of, described in the point 4.4. of this document, six articles and co-authorship of a comment on the Act on the Refund of Excise in the Price of Diesel Oil: R. Dowgier, M. Popławski, Zwrot podatku akcyzowego producentom rolnym. Komentarz (Refund of excise to agricultural producers. A comment), Warsaw 2012, pp. 190.**

4.2. M. Popławski, Uchwały podatkowe w nadzorze regionalnych izb obrachunkowych (Tax resolutions in the supervision of regional accounting chambers), Warsaw 2011, pp. 297,

The objective of this book was foremost an attempt at assessment of the quality of actions taken by regional accounting chambers (RAC), within the supervision over tax resolutions of commune councils, through the prism of the evaluation of the quality of tax resolutions under the supervision of regional accounting chambers, as well as the verification of the complaints reported by the chambers themselves. In this context the basic research problems referred to two general questions: Are the actions taken by particular RACs in the field of supervision

¹ in accordance point III 3 Communication no. 2/2012 of the Central Committee for Titles and Academic Degrees, <http://www.ck.gov.pl/index.php/komunikaty-ck/248-k-o-m-u-n-i-k-a-t-o-r-220123> of 14 June 2012 habilitation candidate in the application submitted to the Central Committee points at the part of his academic or artistic output (after obtaining the doctoral degree), which, as an academic or artistic accomplishment, is in accordance with Article 16 para 1 and 2 of the Act and constitutes a basis for application for the degree of Habilitated Doctor (Dr hab). If this accomplishment is “a monothematic cycle of publications”, it is provided with a title (like a monograph selected as an “academic achievement” in the sense of Article 16 para 2 point 1 of the Act).

over tax resolutions sufficient and are the complaints concerning tax resolutions reported by particular RACs correct?

Assuming an attitude towards the issues presented above required answers to the following questions:

- do particular RACs certify all the faults in tax resolutions?
- what faults are certified by particular chambers?
- are the reservations stated by particular chambers correct?
- which chambers evaluate the resolutions definitely more rigorously or adopt a narrower margin of acceptable records?
- are there visible and unjustified discrepancies between the reservations certified by particular chambers?

In order to specifically analyse the aforesaid issues, this book was divided into two parts. The first part of this study concerns assessment of the supervisory activity of RACs through the prism of the quality of the tax resolutions supervised by these entities. For this purpose the correctness of the tax resolutions under the supervision of particular chambers was assessed. This enabled to establish if the resolutions examined by the chambers contained faults which were not, however, questioned by RACs. This part is also an attempt to justify the reasons why particular records should be considered as faulty within the framework of the RAC's supervision.

For the needs of this part of the paper the following criteria of research material gathering were adopted. First, the investigation covered these kinds of resolutions which play a special role because they concern payments being an important source of tax incomes of communes. In this context the research embraces the resolutions concerning rates and exemptions from the property tax as well as the motor vehicle tax.

Second, the analysis embraced the resolutions which concern the market fee, which is a payment which is of no special significance for communes but, simultaneously, is obligatory. Third, the research subject is also resolutions on the collection as well as those concerning tax declaration and information models, since these documents have a remarkable effect on the implementation of taxes and local fees.

Working on the research material for this part of the book a rule was adopted, in accordance to which out of the supervision area of each chamber 44 resolutions were investigated into, 22 of which were passed respectively in 2008 and 2009. Out of 22 resolutions scrutinised in a particular year 8 concerned the property tax, 8 the motor vehicle tax, 2 the market fee, 2 the collection, 2 tax declaration and information models. Altogether

the research presented in this part of the book embraced over 700 resolutions. The selection of resolutions for the investigation conducted and described in this part is based on an assumption so as to find as many resolutions with faults as possible within the framework of the aforesaid number of resolutions.

Searching for faulty resolutions we used the documents in the system of legal information LEX.

The analysis of tax resolutions presented in the first part of the study was based on the following assumptions. First, establishing which records are acceptable and which ones should be questioned may be subject to various evaluations. We cannot, as it seems, adopt an absolute assumption on the rightness of exclusively particular positions and denying other views. However, this does not mean that it is unacceptable to support particular views and to criticise the others. Such an action is justified if the presentation of a particular point of view is accompanied by a concrete argumentation supporting the specific position. We should also take into consideration the fact that the assessment of particular solutions passed taken by chambers depends on at least a few factors, among which of considerable importance is the possibility of different interpreting particular rules, both statutory, constituting a basis for taking legislative actions, and the tax resolutions under analysis. These differences may manifest themselves not only between particular RACs but also among the members of the same RAC staffs. Various ways of perceiving particular issues are considerably influenced by the views presented in the decisions of administrative courts, especially those which supervise legally the solutions of particular RACs.

Second, we should take an assumption that the resolution under investigation in part I were sent to RACs in order to be supervised in accordance to the Act on RACs. We cannot, however, exclude a situation that the investigation embraced, among other things, the documents which had not been examined by RACs but despite that they were published in the Official Journal of the province and became part of the system of legal information LEX.

Third, in this part of the paper there may objections were raised, which referred to the lack of questioning certain records in the resolutions by particular RACS, in the situation where the chamber could have taken a certain action disapproving of particular records in such resolutions. For the analysis, perhaps, embraced the resolutions in which a RAC noted a law infringement without a simultaneous invalidity of such a resolution as a whole or in part. This problem stems from the fact that in the system of legal information LEX, which was used for gathering the research material, the only information given is about the situations where a RAC adopted a solution or where the invalidity of particular resolutions was

certified. However, there was no information in the system on the fact if, in reference to particular resolutions, a particular RAC stated a law infringement without a simultaneous statement on their invalidity. In the second part reservations raised by regional accounting chambers were analysed. The first chamber contains collective data concerning the activities of chambers. Thanks to this information it was possible to learn the scale of the tax resolutions investigated and questioned from the perspective of all the chambers altogether, as well as from the point of each chamber alone.

The subsequent chapter of this study is an attempt at establishing and describing drawbacks noticed by chambers in the tax resolutions supervised by them. The research presented in this part of the study are based on data prepared by particular regional accounting chambers for the needs of annual reports on the chambers' work. Basing on these documents, the National Council of Regional Accounting Chambers prepared reports for the years 2008 and 2009. These documents, in accordance with Article 25a para 1 point 7 of the Act on RACs, are produced to the Sejm and the Senate of the Republic of Poland. On the basis of this regulation the National Council of Regional Accounting Chambers submits the aforementioned bodies annually, before 30 June, reports on the chambers' work and the implementation of the budget by local government units. The documents in point contain numerical data concerning, for example, tax resolutions examined by chambers, resolutions questioned by chambers, cases in which the invalidity of resolutions of commune legislative bodies was stated, complaints to provincial administrative courts against the resolutions of the organs of local government entities, as well as against supervision solutions of a RAC. They reflect the scale of investigated into and questioned tax resolutions by all the chambers, and present the number of the resolutions raised by RACs which were appealed against at PAC. The above-mentioned source material was extended by specific data prepared by particular chambers. The information obtained in this way implies, for example, what irregularities in tax resolutions were noted by the chambers and how many such situations occurred.

Information of this nature for the year 2008 was obtained from 14 regional accounting chambers, while for the year 2009 from all 16 chambers. The juxtaposition of the data resulting from the first and the second part of the study allowed us to verify if the faults reported by chambers (described in part II) were taken into consideration in all resolutions under their supervision, and if these resolutions contain other defects which should not be accepted by chambers.

In order to observe potential tendencies in the research subject, we assumed that the investigation would embrace two years. Parts I and II present the research based on

resolutions passed in the years 2008 and 2009. It is possible, however, that the data in part II contain the resolutions which might have been passed even in 2007. It is connected with the fact that a RAC may, as a rule, question resolutions within 30 days from the day of their sending to these entities. This means that the resolution taken at the end of 2007 could be questioned by these entities only in 2008. It seems, however, that a possibility of such a situation will have no negative bearing on the conclusions resulting from the research.

On the basis of the research conducted and presented in the study under analysis, the conclusions referred to two basic research problems posed in the paper, indicating that not all reservations reported by RACs are correct and that actions taken by the chambers within their supervision over resolutions are insufficient. Trying to specify these general observations, the following questions were underscored.

First, we can observe that some RACs analyse resolutions definitely more rigorously, questioning definitely a higher number of them than it occurs in other chambers. Perhaps a solution to this problem would be the extension of the role of the National Council of RAC, which should take efforts towards the introduction of actions to secure higher convergence of opinions of all the chambers on the most important issues being a subject of their supervision and the introduction of similar principles of resolution verification procedure. The existence of stable and predictable judgment lines shaped by RACs which will eliminate the fields of legal uncertainty for the representative bodies of local communities.

Second, the rules of their supervision introduced by particular RACs were not implemented. On the one hand particular RACs declare that they regard certain regulations in the resolutions faulty but on the other hand many resolutions embraced by the supervision of the same chambers were found, in which the aforesaid faults were not questioned. This means that the aforementioned guidelines are implemented by some RACs only selectively. This conclusion results from the comparison of the faults certified by particular RACs (conclusions, part II) with the faults which were not questioned by these chambers (conclusions, part I). The problem of selective questioning certain irregularities by chambers may be solved through the improvement of the system of the initial internal verification of tax resolutions in particular chambers. It should be desirable that it enables a more precise analysis of the tax resolutions under supervision. Perhaps an appropriate solution would be to introduce a mechanism of independent verification of the resolutions in a particular chamber by a few good tax experts, who need not be the members of a RAC. It seems important that the final decision whether the proceedings in the case of questioning a particular resolution are launched, is taken by the members of the RAC staff. Introducing this mechanism may

result in a considerably higher number of dubious records being found in the tax resolutions under supervision. The stage of initial analysis is of, as it seems, key importance for the quality of the supervision activity performed by RACs. An important element may also be introducing by particular RAC staffs guidelines, previously consulted within the framework of the National Council of RACs, for the employees preparing the initial assessment of resolutions.

Third, regional accounting chambers frequently accept resolutions which should be recognised faulty. The research demonstrates that particular chambers did not notice defects in the resolutions under analysis. Simultaneously, the resolutions analysed indicate that such faults occur in the documents embraced by the supervision of these chambers. This means that these chambers probably do not consider certain records as faulty or do not notice them because of a faulty system of internal verification of resolutions, mentioned above.

Fourth, particular regional accounting chambers are of different opinions on the interpretation of what is acceptable in tax resolutions and what should be questioned. This statement is reflected in the two conclusions presented above. For this reason then it is important to raise for the second time the fact that the application for increasing the rights of the National Council of Regional Accounting Chambers whose activity may contribute to standardisation of the chambers' views is justified.

Fifth, in some cases chambers consistently certify certain irregularities. This is reflected in the comparison of the data from parts I and II of this study. This demonstrates the existence in particular chambers of a conviction of faultiness of certain solutions introduced in resolutions and simultaneously the existence of certain methods of detecting these faults in the documents under the supervision of a particular chamber. Another question is assessment or, to be precise, an answer to the question if questioning particular records by these chambers should be regarded as appropriate actions.

Sixth, particular chambers should pay attention to the faults which they have so far never questioned. Particular interest in them should be connected with the resolutions which may introduce elements of public aid. As it seems, RACs are not prepared for correct assessment of tax resolutions from the point of view of regulations introducing public aid that may occur in them. This is confirmed by a huge number of resolutions basically under the supervision of all the chambers, where the records whose application would result in allocating illegal public aid were not questioned. In connection therewith, as insufficient is the mechanism according to which a RAC should only examine if the commune organ followed the procedure determined in the Act on Public Aid, i.e. exclusion in respect of resolutions on

exemptions or preferential rates being a kind of aid, for the problem is that many various resolutions, as the research demonstrates, contain “hidden” mechanisms which may introduce public aid. In this case an important role of RACs is an initial verification of resolutions for their even potential existence of regulations of real or possible nature of public aid. In the case of detecting such a possibility they should question such resolutions as not obeying the procedure mentioned above. The following arguments are to be said for such an action:

- supervision exercised by RACs over tax resolutions cannot be reduced to mere evaluation of meeting formal requirements by the entity responsible for preparing the project and passing the resolution but should also include legality of the content of such a document. Article 20b of the Act on Local Taxes and Fees reads that in the cases discussed in Article 4 para 2-4, Article 7 para 3, Article 10 para 2, Article 12 para 4 and article 19 points 1 and 3, if a resolution of a commune council envisages providing public aid, the resolution should be passed in accordance with the regulations concerning public aid. Assessment if the resolution envisages providing public aid requires examining of the accordance of such a document with law, whereas what is or may be public aid is decided foremost by union regulations. This means that supervision over tax regulations should also involve the assessment if particular regulations envisage or may result in their application resulting in providing public aid. Second, it is important to examine if the procedure of aid resolution was followed in accordance to the Aid Act. If a RAC decides that the resolution envisages providing aid, without following the aforesaid procedure it should question this document,

- it must not be justified the lack of such an action on the part of a RAC with the fact that the legality supervision of resolutions in the case of aid resolutions is exercised by the European Commission, and to certain extent the President of the Office of Competition and Consumer Protection (UOKiK). The real supervision over such resolutions is exercised by the RAC, because it is this entity as the only one in the case of tax resolutions has the right to intervene in their form through, for example, pronouncing their invalidity. Neither the European Commission nor the President of UOKiK has such competences.

This study was developed on the basis of the investigation conducted within the framework of the research grant: “The Reform of the Local Tax Law in Poland” financed by the Minister of Science and Higher Education No. N N110 183637, managed by Professor Dr hab. Leonard Etel, implemented at the Department of Law of the University of Białystok.

Professor Dr hab. Eugeniusz Ruśkowski, in the review of this book emphasised, among other things, the following issues. First, the novelty of the book reviewed is a new approach to the subject matter. It involves the combination of scientific research methods with

the perfect knowledge of the supervision practice of RACs, which led to posing courageous, scientific research questions and attempts at their answers. Beside the academic values, the research results are mainly useful for praxis and it is out of them that result the proposals *de lege lata* and *de lege ferenda*.

Secondly, he demonstrated that the scientific virtues of the paper reviewed are especially connected with two aspects: posing far going research problems and an attempt at their solution in accordance with the methodology of scientific research as well as the synthesis of the doctrine views, which the Author adopted as a criterion of correctness assessment of the RAC supervision over tax resolutions. Furthermore, the values for praxis are connected with partly critical evaluation of the RACs' supervision activity, both in the holistic grasp of this institution and particular chambers.

Thirdly, he raised the fact that the critical evaluation of RACs' supervision activity in tax cases must evoke various reactions on the part of the chambers. The study reviewed provides conditions for making the reactions material and substantial serving the improvement of the supervision model and its functioning. It was also indicated that Author's reasoning is based on a considerable source material, and are supervised by a representative of science who is a specialist in taxes and local fees for many years having been a member of a RAC staff. Thus substantial considerations and observations stem from praxis and are expected to serve praxis. They cannot be treated by some RAC employees as a theoretical invention which sometimes has little to do with reality.

In the general conclusion he underscored that it is important to state that the book reviewed has other remarkable academic values and may be of great significance for the improvement of RACs' supervision praxis in the field of the local tax law.

4.3. M. Popławski, Institutions of tax refund. Legal nature and functioning, Warsaw 2009, pp. 144

This study came to existence in order to verify the currently functioning legal solutions concerning the institution of tax refund in the context of its practical importance as well as the implementation of the aims set for them. The paper was supposed to serve the verification of the following statements:

- the structure of the tax refund is too complicated; which is connected with the fact that its particular elements in particular types of tax refund are unnecessarily too diversified, which unnecessarily complicates the structure of this institution, which may make its application in practice difficult

- tax refund is used by the Legislator to fulfil to many different functions; some of them should be implemented with the aid of other, equally effective, instruments; it may enhance and simplify the achievement of the aim and reduce the high costs connected with the tax refund service.

On the basis of the aforesaid general aims of the study a few specific aims were pointed out. First, it took an attempt to present basic elements of this institution of tax law such as: definition of this term, its essence and types of tax refunds. This is to serve an attempt at the placement of this institution among other instruments of tax law.

A specific aim was also to present the structure of tax refund. This was accomplished through analysis of the binding legal rules which regulate the following issues concerning this institution: refund procedure, entities entitled to tax refund, organs awarding tax refund, conditions for rising the right to tax refund, deadlines of tax refund, the method and the form of tax refund execution. Through the prism of these structural elements particular types of tax refund were described. This was to serve indicating differences and similarities between particular types of tax refund. The analysis of legal regulations determining the structure of tax refund was accompanied by a description of particular structural elements in the context of their functioning in practice. This was accomplished for a better presentation of this institution. It may also facilitate indicating disadvantages and advantages of its particular elements, which consequently may encourage potential outlining the directions of modifying the regulations concerning the structure of the institution in point.

Thirdly, a specific aim of this study was to present particular types of tax refund through the prism of the functions they fulfil in practice. This part was to verify which function are the most frequently and which the most rarely implemented with the use of the institution in question. The analysis of this element was to demonstrate which functions have to or should be implemented through tax refund, and which may and should be implemented with the use of other legal instruments without detriment to the implementation of a particular function. In this part of the paper the juridical analysis is also accompanied by an empirical investigation.

It is important to emphasise that the aim of this study was not to present the problems which result from a practical application of the institution in point and to point out potential methods of their solving. Therefore, the study is not to be of a purely practical nature, even though the presentation of tax refund in view of empirical investigations may, to certain extent, lead to this formula.

Justification for launching the analysis of the issue in question was connected with the fact that the problems of tax refund plays an increasingly more considerable role in the economic life of the country, and, what is more, it seems that in the future this institution will be more and more frequently used by the Legislator. We deal with it for example at the Value Added Tax (refund of the input tax surplus payment over the due tax or the input tax, lump input tax refund for farmers, VAT refund for travellers, tax refund connected with construction expenses). The Legislator uses this institution also in the field of excise. We deal with tax refund in the motor vehicle tax and tax on civil law transactions as well as stamp duty. This institution is also pointed at in the Tax Ordinance Law too. This institution plays then an important part in tax law, and in so doing constitutes an important research subject, all the more that it is not a homogeneous institution. This manifests itself in the diversity of rules and procedures of tax refund establishment, ends it serves and the role this institution plays in the structure of a particular tax. As it seems, a broader description and evaluation of the institution of tax refund functioning within the Polish law, have not appeared so far. The existent publications were devoted only to selected practical aspects concerning refund of particular taxes. They do not embrace holistically the problems in point. Particularly we lack monographs which would define the notion of the institution of tax refund, present its essence and include an attempt at evaluation of the current legal status in this field.

The study assumed foremost a deductive mood of research, which is based on the model: theory-praxis observation-conclusions. It employs the juridical method as a principal method and empirical investigations. The latter referred mainly to the research on transparency, functionality, correctness and effectiveness of the currently binding legal regulations concerning tax refund as well as its implementation procedures.

On the basis of the research conducted and presented in the study analysed the following conclusions were presented.

First, the research conducted does not imply that we can confirm the two aforesaid statements pointed out at the beginning of the presentation of this book. The structure of tax refund does not seem complicated. However, it requires refining to a certain degree. The paper underscores, however, that there are, as it seems, no obstacles to standardise the mechanism of tax refund functioning, e.g. introducing self-calculation of the sum of tax refund and eliminating decision-making. It was also added that particular types of tax refund should be also constructed on the basis of the model which is shaped on the basis of the following specific observations. In this context especially important seems the proposal of forming the institution of tax refund on the level of Tax Ordinance Law. The approach to the

issues common for all the institutions of tax refund in the act of general nature seem justified. Guidelines and a starting point as for the form of these regulations may be the solutions included in the Tax Ordinance Law concerning surplus payment. These actions would not lead to eliminating the need for legal regulations in other tax laws. This would allow us to consolidate this institution in the legal system and determine possibly unified standards of its functioning.

The second statement does not seem justified either. Tax refund fulfils actually only three functions. It secures the implementation of VAT neutrality, serves the elimination of double taxation (foremost in excise) as well as creates tax preferences. Consequently, on the one hand tax refund is connected with the structure of a particular tax, being its component (refunds in VAT), but on the other hand they may be also an instrument which is outside this structure (refund in personal income tax). It seems that in a little degree tax refund may be replaced with other legal mechanisms. On the other hand, some types of tax refund should be eliminated from the legal system.

---Secondly, it is emphasised that the institution of tax refund may be perceived through the prism of material law, procedural law and also certain material and technical actions in form of transferring a concrete sum of tax to the entitled entity. Consequently, this study forms the following definitions of this term:

- it is a an authorisation to obtaining from the Revenue Office a certain tax amount due by a certain entity (a material approach),
- it is a material-technical action involving transferring a certain entity a sum of tax by the entity representing the Revenue Office (a technical approach),
- It is a sum of tax transferred by the Revenue Office to a certain entity (a technical approach).

Thirdly, the essence of tax returns was presented through pointing out two basic conditions whose fulfilling causes the entitlement to obtain a tax refund from the Revenue Office. In accordance with the first one there should occur the tax payment; in accordance with the second condition the criteria (material and procedural) determined in the tax law regulations should be met.

Fourthly, the types of tax refund were presented indicating that we may distinguish classical tax refund and its modifications. The idea of classical tax refund is based on the identity of the entities which take part in both tax payment and its refund. We deal with it when a tax payer is entitled to a tax refund in a legal sense (the entity with whom rests the tax obligation), who simultaneously bore the economic weight of this tax and when the tax refund is performed by the same organ which collected the tax.

Fifthly, it was confirmed that tax refund is an institution which is of no homogeneous nature. It is marked with a considerable diversity in both objective and subjective understanding. This means that there are various modes of tax refund, entities entitled to its obtaining and organs exercising it. The object of the classical tax refund is the tax. In some cases it may be the sum of the tax paid including the interest (e.g. refund in the income tax).

Sixthly, it was underscored that in many cases the height of the due tax refund is limited. The basic limitation is the amount of the tax really paid. Sometimes the calculation of the refund limit requires from the beneficiary of tax refund or a tax organ which calculates the tax refund in its decision taking quite complicated actions (VAT refund is connected with housing expenses, excise refund to agricultural producers, refund of excise on electric energy used for goods production by entities exporting or delivering these goods to another member country). It seems that the rules of tax refund sum calculation in some cases are too complicated. On the other hand, it is important to note that even the complicated mechanisms of tax income calculations do not make up a practical problem in the situation where the burden of its calculation does not rest on the beneficiary. Beside maximal tax refund limits legal acts regulating the structure of tax refund contain also minimal amounts of tax refund or expenses which entitle to its obtaining. This type of solution results from, as it seems, to a considerable extent, the rationality of the Legislator, who does not decide to return all, even the smallest sums, but introduces here a certain minimal ceiling.

Seventhly, it was pointed out that the basic form of tax refund is its independent calculation in the application (declaration) submitted by the entitled entity. Hence we can talk about a self-calculation of the height of tax refund. This state of affairs is connected with certain consequences. It is beneficiaries on whom rests the responsibility of calculating the height of tax refund. A beneficiary is burdened with the consequences of errors made at the stage of calculating the tax refund in the application. The application submitted is the basis of tax refund unless the tax organ questions its correctness or justification by its decision. The tax refund application is submitted with a tax declaration. Elements of the application as well as documents being appendices, are strictly defined in appropriate statutory and substatutory regulations. Beside the situations where the application is placed in the declaration, with self-calculation of tax refund there are no officially determined application forms. The research presented in the study analysed demonstrates that self-calculation proves effective in practice and does not need to be replaced with another calculation mode of the tax refund amount, especially when it concerns businesspeople. These tax payers, submitting declarations with applications for tax refund have no serious problems with correct filling in these documents

and do not abuse this institution wanting to obtain tax refund unduly. Beneficiaries who are not businesspeople managed with correct filling in the application worse, quite often making wrong calculations of the amount of refund or applied for it not meeting the conditions for its obtaining. These results, however, do not belittle the advantages of refund self-calculation, even though they point at its smaller effectiveness in the situations where this instrument does not concern businesspeople.

Determining the height of tax refund on the basis of decisions is characteristic of foremost excise. We deal with this form also in the case of personal income tax refund as well as at VAT refund to entities without premises, place of residence or a permanent place of business on the territory of the Republic of Poland, unregistered in the country for the needs of this tax.

The tax refund procedure which is crowned with issuing a decision is always initiated by submitting an appropriate application. In some situations the form of this application is officially determined; in others it is only pointed out that the application must be submitted in writing with the specification of its components and appendices which should be submitted therewith. In many cases, for tax refund to occur the application should be submitted by the legally determined deadline. It is of a material-legal nature and is not subject to reinstatement.

An application submitted within the time prescribed launches the tax return procedure, which should have a precise timeframe. Analysis of legal acts regulating tax return allows us to state that the deadline of issuing the decision completing the procedure is not in all cases directly indicated, even though this deadline may be determined on the basis of the regulations concerning tax return deadlines. Thus, tax return deadlines are, in some cases, are not simultaneously deadlines which determine the timeframes of the tax return procedure in progress.

In practice tax return may be determined in a specific mode. This takes place in the case of refunds of certain expenses connected with house construction for natural persons. It occurs on a tax-payer's application, in which he calculates the refund sum himself. If the correctness of the application submitted is undoubted, the Revenue Office exercises the tax refund indicated in the application without issuing a decision. However, if the application is questioned, the Revenue Office issues an appropriate decision on the refund. The research demonstrates that in most of cases the tax refund was awarded without tax decision issuing. In many cases, however, the Office refused to transfer the refund or to reduce its height in a tax decision. This demonstrates how important an element of tax refund system is the mechanism providing supervision and control.

The specific tax refund also occurs in the case of:

- VAT refund to travellers (refund is transferred on the basis of producing a document issued by the seller to the buyer's name which particularly contains the tax amount paid at the goods delivery),
- VAT refund to 'lump sum' farmers delivering agricultural products (the refund sum is calculated by the goods purchaser),
- excise return due to the seller who sells alcoholic beverages and tobacco products to people travelling to third states in shops situated on the territory of duty-free zones or duty-free warehouses in airports or sea ports located at border crossings (the executive act is limited only to indicating material conditions for tax refund, with no precise specification of the mode it is performed).

Eighthly, it was emphasised that a tax refund beneficiary is not always the entity which paid it discharging itself from the tax obligation. In many cases this refund is performed in favour of the entities which do bear the burden of the tax paying it within the price of the goods and services purchased. It is characteristic of turnover taxes (VAT and excise). Tax turnover to the entities which bore the economic burden of its payment, simultaneously not being tax-payers in a legal sense, usually means that it fulfils the function of preference.

Ninthly, it was pointed out that by rule tax refund is performed by tax organs. Only in exceptional situations tax refund is performed by other entities. One of such situations is excise refund included in the price of diesel oil used for agricultural production. In the field of excise the head of the Revenue Office is proper, but the refund of this tax for agricultural producers is performed by wójt (heads of communes), burmistrz (mayors) or city presidents. VAT refund to travellers is not performed by a tax organ but by the seller or at VAT refund points by the entities whose subject of business is performing such refunds. In the field of lump sum VAT refund for 'lump sum' farmers delivering agricultural products this refund is paid out by the agricultural products purchaser. As it seems, in the aforesaid cases tax refund by entities other than a tax organ is justified by the specificity of the refund and is expected to provide easier tax regaining.

Tenthly, it was noted that the form of transferring tax refund (cash, non-cash) is determined in the legal acts regulating this question. This issue is solved in various ways. It is important to underscore that in this case the provisions of the Tax Ordinance Law determining direct and indirect refund mode are applicable.

Eleventh, it was pointed out that the tax refund deadlines are different for particular categories of tax refund and, in some cases, as it happens in reference to the refund of surplus

payment of the input VAT, are diversified within the framework of the same type of tax refund. The span of the tax refund deadline is relatively large and amounts from 30 days to 6 months. Tax refund deadlines determine the final timeframe within which tax refund should be realised. They are, however, of a relative nature, which means on the one hand that their passage does not make it impossible to perform tax refund by the tax organ, whereas on the other hand, that the deadlines can be postponed, which is stated in many cases by the legal act regulating a particular category of tax refund. A precise determination of tax refund deadline is necessary for the beneficiary to be able to effectively claim his right. Nevertheless, in some cases the Legislator abandoned determining directly the tax refund deadline.

The presented research demonstrates that tax organs perform tax refund within the statutory timeframes. This conclusion may be drawn from foremost investigations into refunds of surplus payment of input tax over due tax in VAT in 2007, whose return scale was PLN 50.5 billion. The analysis of the data shows that the definite majority of refunds is performed within 60 day. This occurred in 84% of cases.

Similar conclusions may be drawn on the basis of the data concerning refund of input tax in form of pre-payment. These refunds are transferred within statutory timeframes. In accordance with them the first instalment is paid out within 60 days from the day of application, the second instalment within 120 days, and the third within 180 days. The analysis of the data gathered demonstrates that the definite majority of refunds were transferred within the timeframe for the first instalment (approx. PLN 100 million of total 114 million), including almost a half absolutely before the deadline, since it was within 30 days from the application. This implies efficient work of tax organs, which, not waiting till the deadline, return the tax earlier.

It is characteristic that but a few normative acts contain provisions regulating tax refund determine the consequences of non-compliance with deadline. In this field the provisions of the Tax Ordinance Law are not applicable because Article 76b does not send for the tax refund to the regulation concerning interest rates on surplus payment. Hence the conclusion that tax refund after the deadline is connected with the necessity of adding extra interest only in the cases where the act of law determines so. In practice tax refund transferred along with the interest in the situation of delay on the part of the tax organ (in decision issuing or in tax refund payment) does not occur, as it seems, very often. On the basis of investigations into refund of some construction expenses for natural persons, it was stated that the interest connected with indolence on the part of the organs, were transferred in mere 109 cases, which, taking into consideration the number of applications for the return of this

payment, 400 thousand of which having been submitted, demonstrates how small the scale of the problem it is.

Twelfth, it was stated that conducting the research concerning the function of tax refund first tax refund in the context of European Union regulations was analysed. It was established that this instrument fulfils certain functions depending on the tax to which it is applied. In VAT the refund is by design expected to implement foremost the rule of neutrality of this tax to the taxpayer. The rule secures that the entity selling goods to another entity (in the same country or abroad) cannot be charged with VAT which he previously paid purchasing the goods. He is not their final consumer. In excise tax refund is aimed foremost at elimination of double taxation, which may be connected with the international goods turnover. Another aim of tax refund in view of EU regulations for excise is introducing tax preferences.

Thirteenth, it was raised that on the ground of the Polish law ten cases were envisaged in which tax return may be treated as an instrument fulfilling the function of neutrality of VAT. The basic case of refund which fulfils this function is the return of the surplus payment of input VAT over the due tax. The research on this institution demonstrates that the sum of refunds of the input tax surplus payment over the due tax in 2007 in the scale of the country amounted approx. PLN 50.5 billion. The heights of the tax refunds performed by particular chambers simultaneously reflect the disproportion of the entrepreneurship development in particular parts of the country (the Tax Chamber in Warsaw returned over PLN 16 billion of tax, while for example the Tax Chamber in Opole or Kielce only PLN 800 million each). Relatively important role was also played by VAT refund in form of pre-paid input tax. In the scale of the country the annual amount of the tax returned in this respect amounted over PLN 114.5 million.

Fourteenth, it was raised that some refunds in VAT basically do not play any practical role. The research demonstrates that the return of the amount of input tax to the entities searching for or recognising mineral deposits as well as excavating minerals out of deposits is practically not exercised. In the year 2007 no single case of the use of this category of refund was noted. The analysis of the research concerning input tax refund to the entity purchasing (importing) goods or services financed from the resources of unreturnable foreign aid leads also to a conclusion that this refund was hardly ever used. Four applications for refund submitted in the scale of the country and, consequently, c. PLN 5.5 thousand of the transferred tax confirms this thesis.

The refund whose aim is elimination of double taxation in the Polish tax system plays an important part foremost in excise. This is connected with the fact that VAT in Poland is based by design on the mechanism of tax deductions due to which double taxation is eliminated. In excise this formula is not applicable. Tax return is expected to fill in this gap. This is confirmed by the fact that currently we deal with eight types of this refund.

The research shows that excise refund transferred in connection with the intra-community goods delivery or export usually amounted, depending on the legal basis, in 2007 in the scale of the country from a few to a few dozen million zlotys, and in one case over one hundred million zlotys.

Refund in the field of VAT as an element eliminating double taxation plays, however, a little role. Data concerning the refund of the tax input on the entity purchasing (importing) confirm, as it seems, this fact, indicating that this refund in the scale of the year was transferred to the tune of approximately PLN 5 million. Similar conclusions result from the analysis of the data concerning tax refund to the entities which performed a intra-community delivery of new means of transport, in the case when the circumstances do not imply the intention of performing this action frequently. This thesis is confirmed by the fact that in 2007 only three application for refund were submitted in the scale of the country and, consequently, approx. PLN 16 million of tax was transferred.

In the case of excise the refund fulfils also the function of tax preference. It functions in eight cases and implements the following aims:

- price reduction of certain goods and products which are produced on their basis (denatured alcohol),
- expense reduction of functioning certain entities working in Poland (diplomatic and consular posts, military forces of foreign states and NATO structures),
- stimulation towards changing the previous workplace and settling in Poland (foreign personnel of the NATO structures and their family members),
- reduction in burdens of particular entities (the entities which before Poland's joining the European Union paid the due tax, which, however, in view of the regulations binding from 1 May 2004 would not be collected if the actions took place after this date),
- export stimulation through excise refund concerning sale to tourists from outside the EU,
- preferring small and medium-size breweries,
- cost reduction in agricultural production.

In order to fully implement the aims of particular preferences the mechanism of tax refund, as it seems, cannot be replaced with other instruments. All the more we cannot abandon its use

without detriment to these aims. These preferences have their own specificity and, consequently, cannot be identified with tax reductions and exemptions. On the other hand, the use of this mechanism should be very reasonable. It should be applied only where it is indispensable and cannot be replaced with tax reductions or exemptions. We should remember about the higher labour-consumption and costliness of this mechanism than other tax preferences, which was discussed above.

The research demonstrates, however, that some types of tax refund do not have any practical application at all (excise refund concerning ethyl alcohol as well as the tax refund to which sellers are entitled in connection with the sale of goods to travellers). Some types of tax refund are applied incidentally (excise return to the entities importing beer from small breweries occurred in the working area of only two customs chambers). The tax refund to which diplomatic posts and military units are entitled by design is limited.

Of special nature is excise refund for agricultural producers. The combined amount of the tax refund transferred on the basis of this title reached almost PLN 260 million in 2007. It is important to emphasise that the entities entitled to this preference did not use it in its full range, for the maximal amount to return was approx. PLN 360 million.

In VAT, tax refund being a kind of tax preference plays a diversified role. The research concerning VAT refund to which the Military Forces of Member-States of the North-Atlantic Treaty as well as the Military Forces of Member-States of the North-Atlantic Treaty participating in the Partnership for Peace, multinational Headquarters and Commands of their civil personnel demonstrate that in 2007 on the territory of the whole country altogether 9 applications for this refund were submitted and, consequently, over PLN 6.8 was returned. On the other hand, in the field of the refund of some expenses connected with house construction to natural persons, the entitled entities obtained approximately PLN 600 million. This confirms the fact that awarding this preference essentially affected the reduction of economic burden connected with expenses bore for housing purposes and in so doing it constituted for this group of over 400 thousand people a significant protective instrument mitigating the rise of the VAT rate for construction materials.

The refund in the motor vehicle tax, as confirmed by a survey, is of no practical application. This is connected with the lack of appropriate railway infrastructure in Poland, the existence of which is an indispensable element of tax refund application.

This publication used the investigations conducted within the framework of a grant financed from the resources of the Ministry of Science and Higher Education No N N110 1303 33 titled "Tax refund – assumptions and practice".

4.4. The monothematic cycle of publications “Reflections on the institution of tax refund” consists of the following papers:

- M. Popławski, Charakter prawny instytucji zwrotu podatku (The legal nature of the institution of tax refund), "Państwo i Prawo" 2007, no. 9, p. 77-88
- M. Popławski, Uprawnienia podatkowe stanowiące podstawę dochodzenia należności od podmiotów publicznych (Tax entitlements being a basis for claiming amounts due from public entities), in: L. Etel (ed.), System prawa finansowego (The Finance Law System). Vol. 3. Prawo daniowe (Tax and duty law), Warsaw 2010, p. 618-639
- M. Popławski, Zasady wprowadzania zwrotów podatkowych na gruncie Konstytucji RP (The principles of tax refund introduction on the basis of the Constitution of the Republic of Poland), in: P. J. Lewkowicz, J. Stankiewicz (ed.), Konstytucyjne uwarunkowania tworzenia i stosowania prawa finansowego i podatkowego (Constitutional determinants of creating and applying finance and tax law), Białystok 2010, p. 453-464
- M. Popławski, Zastosowanie przepisów Ordynacji podatkowej do zwrotu podatku (The application of the provisions of the Tax Ordinance Law for tax refund), in: J. Głuchowski, A. Pomorska, J. Szołno-Koguc (ed.), Główne wyzwania i problemy systemu finansów publicznych (The main challenges and problems of the public finance system), Lublin 2009, p. 639-647
- M. Popławski, Pośredni i bezpośredni tryb zwrotu podatku na gruncie Ordynacji podatkowej (The indirect and direct mode of tax refund in view of the Tax Ordinance Law), in: L. Etel (ed.), Ordynacja podatkowa w teorii i praktyce (The Tax Ordinance Law in theory and practice), Białystok 2008, p. 173-180
- M. Popławski, Decyzja określająca wysokość zwrotu podatku spadkobiercy - problemy praktyczne (A decision determining the height of the tax refund of the heir: practical problems), "Studia Łódzkie" 2007, vol. 9, p. 221-230
- co-authorship of the comment on the Act on the Refund of Excise in the Price of Diesel Oil): R. Dowgier, M. Popławski, Zwrot podatku akcyzowego producentom rolnym. Komentarz (Excise refund to agricultural producers: a comment), Warszawa 2012, pp. 190.

The publications presented above constitute a thematic supplement to the monograph presented in point 4.3. The conclusions included in some of them made up a basis for further research presented in the book M. Popławski, Instytucje zwrotu podatku. Charakter prawny i

funkcjonowanie (Tax refund institutions: Legal nature and functioning), Warsaw 2009, pp. 144.

The nature of the papers in the cycle "Reflections around the institution of tax refund" is diversified. Part of them is dominated by legal theory (M. Popławski, **Charakter prawny instytucji zwrotu podatku (The legal nature of the institution of tax refund)**, "State and Law" 2007, no 9, p. 77-88); M. Popławski, *Uprawnienia podatkowe stanowiące podstawę dochodzenia należności od podmiotów publicznych (Tax entitlements being a basis for claiming amounts due from public entities)*, in: L. Etel (ed.), *System prawa finansowego (The Finance Law System)*. Vol. 3. *Prawo daniowe (Tax and duty law)*, Warsaw 2010, p. 618-639).

The first of these studies was, on the one, hand an attempt at demonstrating relations between the notion of tax refunds and the notion of tax claims presented in the doctrine; on the other hand, at presenting the characteristic qualities of tax refunds. Within the framework of the investigations conducted and presented in this article, it was stated that the application of the institution of tax refund leads to the rise of a tax claim. In the case of tax claims we deal with the reversal of the classical relations occurring in a tax obligation, where the tax organ acts as a creditor whereas the tax payer as a debtor. At a tax claim the tax organ becomes a debtor while the tax payer is a creditor entitled to claim certain acts of the other party of this tax relation. This paper emphasised that the aforesaid element ascribed to the institution of tax claim occurs at the mechanism of tax refund. In these cases we deal with a situation where a passive tax payer is entitled to demand from an active tax organ a certain action (tax refund), the result of which will be obtaining a certain financial provision.

An important element of this study is indicating characteristic qualities of this instrument. Among them the following elements deserve a special attention. First, it was recognised that it is an institution whose legal basis lies in the provisions of the material tax law. One is entitled to this right only in the case where the act regulating rights and obligations of the taxpayer contains an explicit record enabling to raise and establish this claim. This is how it differs from surplus payment, which occurs in every case when we deal with the tax overpaid or unnecessarily paid. It was also underscored that the Tax Ordinance Law cannot be a self-contained basis for the establishment of tax refund.

Second, it was pointed out that the material provisions which introduce the institutions of tax refund often determine some specific questions connected therewith, such as: conditions to be met, the mode and deadlines of refund, and the consequences of not returning the tax within the due time. The provisions concerning refund the most frequently constitute a

component of the tax act regulating the structure of a particular tax. In this area there also occur situations where the institution of tax refund may be regulated in a separate act of law.

Third, it was established that the application of tax refund is usually a right and not obligation of the taxpayer. It may be sometimes of an alternative nature, where the taxpayer may choose to use one or another institution. In some cases tax refund is an institution applied *ex officio* thereby becomes an obligatory formula (tax refund on civil-law actions and stamp duty).

Fourth, it was indicated that refund is usually an instrument directly connected with a tax previously paid. Not having paid the tax by the taxpayer makes it impossible for him to obtain the refund. An exceptional situation occurs at the lump sum VAT refund to which 'lump sum' farmers are entitled.

Fifth, this institution may serve different ends. It may supplement a mechanism of a particular tax (return of the surplus payment of the input tax over the input tax or a return of the input tax, return of this tax to travellers, tax refund on civil-law actions and stamp duty), stimulate pro-ecological behaviour (motor vehicle tax refund), create an economic support for a certain group of entities (lump sum VAT refund for farmers, excise refund for agricultural producers, VAT refund for construction expenses).

The article **Uprawnienia podatkowe stanowiące podstawę dochodzenia należności od podmiotów publicznych (Tax entitlements being a basis for claiming amounts due from public entities)**, in: L. Etel (ed.), **System prawa finansowego (The Finance Law System)**. Vol. 3. **Prawo daniowe (Tax and duty law)**, Warsaw 2010, p. 618-639 was an attempt at presenting tax refunds as a tax entitlement being a basis for claiming amounts due from the Treasury or units of local government. This article includes a thesis that the entitlement to tax refund, beside the right to the return of surplus payment, find their basis in the right of the taxpayer to pay the tax only at the height resulting from the provisions of law, which is presented in the doctrine. This study expresses an opinion that it is the law that corresponds with the taxpayer's right to pay the tax due at the height resulting from the provision of law. Attention was also drawn to the legal regulations included in the EU law, international law and also internal law, including the Constitution of the Republic of Poland, which may be a basis for isolating this right. Characterising the entitlement to the applying the institution of tax refund, we particularly focused on the refunds playing the role of tax preferences. It was demonstrated that this entitlement finds an additional basis in the right of any entity to use the legal tax preferences. Functioning of this entitlement was compared with the entitlement to using tax reductions and exemptions, which are structural elements of the

tax. It was also emphasised that there is no reason for another protection of the right to use only some of the tax preferences refusing to protect the right to use the tax refunds introduced by the Legislator which bring taxpayers measurable economic profits.

Within the framework of the analysed cycle of publications there is also a publication dedicated to the rules of introducing these institutions in view of the Constitution of the Republic of Poland (M. Popławski, **Zasady wprowadzania zwrotów podatkowych na gruncie Konstytucji RP (The principles of tax refund introduction on the basis of the Constitution of the Republic of Poland)**, in: P. J. Lewkowicz, J. Stankiewicz (ed.), **Konstytucyjne uwarunkowania tworzenia i stosowania prawa finansowego i podatkowego (Constitutional determinants of creating and applying finance and tax law)**, Białystok 2010, p. 453-464). The research problem presented in this study emerged from doubts concerning the principles of introducing tax refunds as well as determining their legal structure in view of the requirements resulting from the Constitution of the Republic of Poland of 2 April 1997. The aforesaid problem may be illustrated with a question if the introduction of tax refund and the determination of its structure must occur as an act of law or may be implemented on the basis of an inferior act. Within the framework of the study in point the following actions were taken. First, analysis of requirements determined in Article 217 of the Constitution was conducted in the context of the institutions of tax refund. This required, for example, determining the statutory tax matter or the tax issues which must be determined in an act of law allowing for constitutional requirements. Second, it was examined if the instruments of tax refund are embraced with the range of this matter, and, if so, how broad this range is.

Within the framework of the research described in the article in question a thesis was formed that introducing tax refunds and defining their structures does not need to occur through an act of legislation. This may be implemented on the basis of an executive act, though issued on the legal basis included in the act meeting the requirements of Articles 217 and 92 of the Constitution of the Republic of Poland. An exception is VAT refunds, which are structural elements of this tax. In this situation this instrument should be determined directly in an act of law. This statement was supported by the following establishments presented in this paper.

First, the Legislator, defining the scope of the tax statutory matter in Article 217 of the Constitution of the Republic of Poland distributed the stress which concern it in a different way. On the one hand he demonstrated that the tax subject, the tax object and tax rates should be determined by an act of law. This means that their introduction and defining the structure

of these elements require a direct introduction of this matter into the act of law. The legislator treats differently the constitutional questions concerning tax preferences. The act should determine the rules of awarding reductions and extinctions as well as the categories of entities exempted from the tax. The statutory matter is not required for introducing these preferences and determining their structures. This may be implemented on the basis of an executive act.

Second, VAT refunds affect the weight of this payment. Therefore, it makes up an important element of this amount due. Thus, it should be treated as an element under the statutory tax matter. Consequently, these refunds should directly result from the act of law. Introducing this mechanism and determining basic elements of its structure should not be given for determination in an inferior act.

Third, the tax refunds which are not connected with the tax structure (the element of elimination of double taxation or tax preference) should be treated as preferences discussed in Article 217 of the Constitution of the Republic of Poland. At least the principles of their introduction as well as the guidelines discussed in Article 92 of the Constitution should be determined in the form of act of law. The other elements concerning these refunds may be left for determination in form of an inferior act.

Another type of studies included in the cycle of publications under discussion concerns aspects connected with a possibility and potential consequences of applying certain provisions of the Tax Ordinance Law at the stage of implementing tax refunds. **The study *Zastosowanie przepisów Ordynacji podatkowej do zwrotu podatku (The application of the provisions of the Tax Ordinance Law for tax refund)*, in: ed. J. Gluchowski, A. Pomorska, J. Szolno-Koguc (ed.), *Główne wyzwania i problemy systemu finansów publicznych (The main challenges and problems of the public finance system)*, Lublin 2009, p. 639-647** takes up the problem of the feasibility and the scope of applying the provisions of the Tax Ordinance Law to actions concerning the application of the institution of tax refund. This is particularly important because both acts being a material-law basis of tax refunds do not regulate many essential questions in their practical application such as, for example, procedural rules at considering applications for a refund, examining applications and declarations concerning refunds, correcting declarations with the amount of refund, or the form of refund, its interest rate, accounting the refund towards tax arrears, or else expiring the date of refund. On the basis of the analysis of the objective scope of the Tax Ordinance Law as well as regulations in the acts regulating particular tax refunds it was found that the provisions of the Tax Ordinance Law are applied for tax refunds in three cases. First, when there is a direct reference to the Tax Ordinance Law in the act regulating the refund structure.

Second, when tax refund is a structural element of the tax or affects directly its establishment or determination. Third, when the refund is a case of tax law within the property of tax organs.

Within the framework of the study titled **Pośredni i bezpośredni tryb zwrotu podatku na gruncie Ordynacji podatkowej (The indirect and direct mode of tax refund in view of the Tax Ordinance Law)**, in: L. Etel (ed.), **Ordynacja podatkowa w teorii i praktyce (The Tax Ordinance Law in theory and practice)**, Białystok 2008, p. 173-180 we posited a thesis that the application of the mechanisms of direct and indirect refund which can be found in the Tax Ordinance Law (counting the refund sum due to a taxpayer towards tax arrears) to tax refund may occur if two conditions are met. First, there must exist an identity of tax organs in tax refund and the tax arrears or a current tax obligation. Second, there must exist an identity of the entities which are entitled to tax refund and, simultaneously, who are not charged with tax arrears or a current tax obligation. This paper determined also the moment when the amount of the tax refund is counted towards tax arrears. It is the day of submission of the declaration with the declared tax refund or the day of submission of the application for tax refund. The first rule is applicable if the amount of tax refund presented in the declaration is correct. Otherwise, it seems that it is the amount presented in the decision, and not in the declaration, on the day of its release that is counted. The application of the second rule requires emphasising that actions involving this counting may take place only when it is a required payment, i.e. the amount of refund results from a decision determining a return to a particular entity. Effects of the counting of tax refund towards the tax arrears, on the other hand, will occur on the day when the application for refund is submitted.

The article **Decyzja określająca wysokość zwrotu podatku spadkobiercy - problemy praktyczne (A decision determining the height of the tax refund of the heir: practical problems)**, "Studia Elckie" 2007, vol. 9, p. 221-230 is an attempt at referring to the question concerning tax refund proceedings in the situation where in place of the entitled entity its heirs appear. The thesis, expressed in the publication titled *Zastosowanie przepisów Ordynacji podatkowej do zwrotu podatku (The application of the provisions of the Tax Ordinance Law for tax refund)* described above, that here there exists a necessity of applying the provisions of the Tax Ordinance Law in the field of most of the currently functioning tax refunds. Moreover, it was found that the decision determining the height of a heir's tax refund may be taken only in such situations that the tax refund may result from tax declarations. On the other hand, it is not applicable to refunds whose obtaining depends on submitting an

application by the entitled entity and releasing a decision by the tax organ. It was also pointed out that the decision determining the height of the heir's tax refund, discussed in Article 100 of the Tax Ordinance Law, should appear only when the tax organ, because of faults detected in the heir's tax declaration, has not taken any actions against him connected with the tax proceedings conducted to determine the height of the refund on the basis of Article 21 para 3a of the Tax Ordinance Law. It is important to add that an additional condition is that the amount of the tax due to be returned, resulting from the declaration, should be lower than that due to pay in. It was also underscored that the tax proceedings prior to releasing the decision in point should foremost embrace the establishment of the circle of heirs, the height of the correct amount of tax return and its contingent distribution among the heirs. The first two elements are obligatory. However, it does not seem important in this case what is the content of the declaration of acceptance of inheritance and if the partition of the inheritance has been executed. The distribution of the amount of refund determined by the decision should occur only in the case of existence of more than one heir entitled to the refund. In this area we should apply a rule that the tax refunds falling upon heirs are returned to particular heirs in the proportion determined in their concordant declaration of will.

The last part above mentioned cycle of publications constitutes a study on practical problems connected with the application of excise refund included in the price of diesel oil: **R. Dowgier, M. Popławski, Zwrot podatku akcyzowego producentom rolnym. Komentarz (Refund of excise to agricultural producers. A comment), Warsaw 2012, pp. 190.** The objective of this paper was to explain the rules of functioning of excise refund including in the price of diesel oil. In force since 2006 the rules of refund cause numerous problems with their application. The evidence thereof is, for example, a great number of explanations concerning excise refund, which are published on the website of the Ministry of Agriculture and Rural Development. Beside the Act of 10 March 2006 since the moment of its entering into force also administrative courts issued their decisions, which, like explanations of the department of agriculture, are not a source of law, but should be taken into consideration in the process of the Act commented on. It is finally important to mention those few amendments to the Act, the most important of which has been in force since 1 January 2012. The method of commentaries was based on the subsequent provisions of the Act on Excise Refund. The particular theses to the provisions commented on reflect theoretical and practical problems occurring within the particular regulation. Those of them that deserve a special attention are the following questions discussed in the paper analysed: establishing the period in which a given person should be an agricultural producer in order to become a

beneficiary of the tax refund in point (Article 3), establishing the entity entitled to refund in the case of transferring the possession of the farmland by the owner (Article 3), changing the surface area of the farmland after 1 February of the particular year vs. the question of the limit on the due tax refund (Article 4), the nature of the deadline for submitting an application for excise refund (Article 6). The paper, beside the commentary to all the provisions of the aforesaid Act, includes specimens of statements of claim which may be of real assistance to the organs taking decisions on the matter in point. My part involved preparing comments for four articles (Articles 3-6) and preparing the final version of specimen of statements of claim. The percentage of my part is estimated as 50%.

5. The other academic and research accomplishments

5.1. Academic publications in the periodicals in the base Journal Citation Reports (JRC) and the European Reference Index for the Humanities (ERIH)

Practical tax law - making problems at commune-level², "Studies in Logic, Grammar and Rhetoric" 2011, vol. 26 (39), p. 257-270, ISBN 978-83-7431-304-9, ISSN 0860-150X, According to the European Reference Index for the Humanities (ERIH) this journal grants 10 points.³

This paper took an attempt at answering, *inter alia*, the question about the process of creating tax resolutions from the perspective of people employed in commune and town offices and simultaneously dealing with these problems. It seems that the research thereon has never been conducted in Poland so far. The article analysed the quality of the existent discourse, both inside and outside communes, concerning tax resolutions created by communes. This research was expected to contribute to detecting how particular legal mechanisms forming law making on the local level in Poland functions in practice and also how they are evaluated by the people directly involved in these actions. The Author's assumption was that the information acquired in this way were to contribute to a proper

² This article was published in English. The Polish translation of its title is: "Praktyczne problemy stanowienia prawa na szczeblu gminnym w zakresie prawa podatkowego".

³ see: The value of publications within the framework of the parametrical assessment of a unit (legal status of 1 August 2011) along with the proposition of the Team appointed by the Minister of Science and Higher Education of adding new items to the so-called list of journals, which is expected to be used by the Committee for Evaluation of Academic Units published at: http://www.prawo.uwb.edu.pl/pliki/prawo_newfile/punktacja_czasopism2.pdf - last visited 15.06.2012 .

diagnosis concerning the quality of the procedures of creating tax law in communes and help to point out drawbacks emerging in this matter.

Within the framework of the paper in question there emerge certain problems which concern the legislative activities of communes in tax law exercised by commune employees dealing with taxes. Among the issues presented in this paper, the following seem especially important:

- employees of local units assess negatively the discourse within the framework of the internal structure of these entities, which concerns tax resolution making; this demonstrates that the employees of communes do not assess very well the aid on the part of solicitors employed by communes in preparing drafts of tax resolutions,
- people in communes dealing with preparing tax resolution drafts remark that there is not discussion on these issues between them and the councilors; consequently the councilors introduce legally faulty changes into the tax resolutions.
- commune employees regard insufficient the dialogue between some supervisory organs and concerning the entities making local tax law: the cooperation of communes and the President of the Office of Competition and Consumer Protection in the field of assessment of tax resolution drafts.
- lack of appropriate education of the people who deal with preparing drafts of tax resolutions,
- there are problems with correct constructing resolutions on exemptions in connection with: Regional Accounting Chambers questioning mixed object-subject exemptions, unclearness of regulations, including those concerning the problems of public aid, divergence in judging, difficulties in determining purely objective exemption, precise determining the conditions of exemptions, the problem of determining the type of object which is to be exempted, disputes among councillors as for the way of deciding on and form of exemptions, lack of educational materials useful for preparing a resolution draft;
- there are problems connected with the diversification of property tax rates in connection with the necessity of applying the rules concerning public aid and limits resulting therefrom, the necessity of precise defining the type of business, the efforts of councillors to reduce the rates maximally, the pressure of certain groups of taxpayers onto lowering the rates.
- the obligation concerning giving opinions on resolutions connected with agricultural tax by agricultural chambers,
- short time limits for preparing a project.

This publication indicated certain elements which are, or may be, applied in communes in order to improve the quality of the local tax resolutions:

- very important is the role of trainings in preparing tax resolutions; we should develop this way of enriching the knowledge of commune employees dealing with these problems, councillors and solicitors; an important element of this system should be trainings in these issues organised foremost by the units which exercise supervision over the resolution-making, for example the Regional Accounting Chamber, the President of the Office for Competition and Consumers, administrative courts and the ministry of agriculture.

- it is important to propose increase in communes' activity in looking for support on the part of Regional Accounting Chambers in preparing the project of tax resolutions.

- introducing a mechanism, thanks to which the drafts of resolutions, having been modified by the councillors, should be inquisitively evaluated for the requirements of accordance with the law before the ultimate voting over a given general resolution.

- introducing aid exemptions the most frequently in the mode of relatively transparent and simple formula *de minimis*.

- restricting the situations in which diversifying rates concern businesspeople; this mechanism should be used in reference to buildings or the other land; this will lead to eliminating the problem of public aid,

- it should be suggested to communes to pass resolutions for undetermined time.

This paper was written on the basis of a research conducted within the framework of the research grant "The reform of local tax law in Poland" financed by the Ministry of Science and Higher Education.⁴

5.2. Authorship and co-authorship of monographs, research publications in international and national journals other than those in the bases or the list which are mentioned in point 5.1.

5.2.1. The first research field being a subject of my research interest is **problems of tax resolutions**. This is connected with, among other things, my position of part-time member of the Staff of the Regional Accounting Chamber in Białystok in the period 2005-11. Within the framework of my responsibilities resulting from this position I, among other things, analysed tax resolutions taken by legislative organs of communes. As a result of these interests, 16 papers were written beside the items discussed in points 4.2 and 5.1) of this summary. They concern three research areas: the legislative process concerning tax resolutions, problems emerging from constructing particular tax resolutions, as well as evaluation of the quality of

⁴ No. N N110 183637 managed by Profesor Dr hab. Leonard Etel and implemented at the Department of Law of the University of Białystok.

tax resolutions resulting from the supervision exercised by regional accounting chambers as well as the inspection of administrative courts.

Problems of legislative process were the subject-matter of the article **M. Popławski, Formalne wymogi stanowienia prawa w gminach (Formal requirements of law-making in communes)**, "Finanse Komunalne" 2007, no. 3, p.28-35, which presents selected aspects of legislative activities of commune legislative bodies, from preparing a resolution draft, passing the resolution by the commune council by vote, to its publishing. The subject of my particular analysis was threats concerning dates of taking tax resolutions, the period in which these acts are binding as well as certain formal requirements which tax resolutions should meet. Within the framework of this study I also pointed out basic qualities of these acts of local law. This subject-matter was also considered in the paper **Podatki lokalne (Local taxes)**, L. Etel, M. Popławski, in: C. Kosikowski and J. M. Salachna (ed.), **Finanse samorządowe : 580 pytań i odpowiedzi : wzory uchwał, deklaracji, decyzji, umów (Local government finance. 580 questions and answers. Specimens of resolutions, declarations, decisions, agreements)**, Warsaw 2012, p. 253-278.

Within the matter concerning tax resolutions the research subject was **problems of constructing certain tax resolutions**. The analysis embraced some types of acts of local tax law.

The first type of the analysed acts was a resolution on motor vehicle tax rates. The article **Problemy związane ze stosowaniem wybranych przepisów regulujących podatki lokalne wynikające z rozstrzygnięć sądowych oraz regionalnych izb obrachunkowych (Problems connected with the application of selected regulations for local taxes resulting from judicial decisions and regional accounting chambers)**, in: K. Święch, A. Zalcewicz (ed.), **Sanacja finansów publicznych w Polsce. Aspekty prawne i ekonomiczne**, Szczecin 2005, p. 161-170 presented selected regulations included in the Act on Local Taxes and Fees, whose implementation in practice, in view of judicial decisions as well as regional accounting chambers cause problems. The basic research issues concerned the incorrect structure of minimal rates in the motor vehicle tax as well as the faulty rule of maximal and minimal rate valorisation in the motor vehicle tax. In conclusion two questions were underscored. First, it was stated that minimal rates for truck tractors and ballast tractors as well as trailers and semi-trailers with four, and more, axles. This may be accomplished in a very simple way through introducing a record in Appendices no. 2 and 3 of the Act on Local Taxes and Fees stating that minimal rates proper for the aforesaid vehicles with three axles also refer to the vehicles with a higher number of axles. Second, it was emphasised that in the motor vehicle tax we

should adopt a uniform criterion of valorisation of minimal and maximal rates, which should be the growth of the euro rate of exchange.

Relevance of the conclusions presented in the above-mentioned paper is confirmed in the following articles: **Wybrane problemy dotyczące uchwał w sprawie stawek w podatku od środków transportowych oraz opłat uzdrowiskowej i miejscowej na 2006 rok** (Selected problems concerning resolutions on motor vehicle tax rates as well as resort and local fees for 2006), "Finanse Komunalne" 2006, no. 1-2, p. 55-63 and **Uchwała w sprawie stawek w podatku od środków transportowych na 2010 r. - wybrane kwestie** (The resolution on motor vehicle tax rates for 2010: selected questions), "Przegląd Podatków Lokalnych i Finansów Samorządowych" 2009, no 11, p. 1, 10-13. The former presents also the principles which should be taken into consideration while preparing a resolution on motor vehicle tax for 2006. A problem which was the subject of a particular analysis in this paper was connected with automatic reduction of minimal rates for 2006 in connection with faulty rules of their valorisation adopted by the Legislator. The article points out the necessity for all commune councils to take new resolutions on the matter in point and underscored the effects of not taking such actions.

The latter presents the rules binding in the resolutions taken for the year 2010. The problem which emerged was connected with the necessity of such perfection of the resolutions that they take into consideration the growth in burden, in this case in reference to at least part of vehicles; in comparison with the previous year by approximately 20%. The obligation of raising the rates in the motor vehicle tax resulted from the divergent rules of valorisation of minimal and maximal rates adopted a few years before in the Act on Local Taxes and Fees, which were negatively assessed in the aforesaid article.

The other type of the resolutions under scrutiny concerned the resort fee and the local fee. This subject-matter is reflected in the article **Wybrane problemy dotyczące uchwał w sprawie stawek w podatku od środków transportowych oraz opłat uzdrowiskowej i miejscowej na 2006 rok** (Selected problems concerning resolutions on motor vehicle tax rates as well as resort and local fees for 2006), "Finanse Komunalne" 2006, no. 1-2, p. 55-63. The issues presented in this paper concerned the newly-introduced legal solutions which appeared in the middle and at the end of 2005. Out of important questions raised in this paper two questions deserve particular attention. First it was pointed out that resolutions on the newly introduced resort fee must be taken by the communes with the status of resort. Second, it was underscored that since 2.10.2005 the communes with the status of resort should not collect the local fee.

The third type of resolutions under investigation concerned the introduced preferences and rates which could be of a kind of public aid. The article prepared jointly by **R. Dowgier, M. Popławski, Uchwała w sprawie zwolnień w podatku od nieruchomości stanowiących regionalną pomoc inwestycyjną (The resolution on exemptions from the property tax being a regional investment aid), "Przegląd Podatków Lokalnych i Finansów Samorządowych" 2007, no. 11, p. 8-12** took an attempt at finding elements which should be included in the resolutions introducing exemptions from property tax and motor vehicle tax on the basis of the regulation of the Council of Ministers of 23 July 2007 on communes awarding exemptions from property tax, which makes it a regional investment aid. First the obligatory elements of the resolution and then the facultative ones. The reflections in these article were original because of the analysis of the new introduced legal act (i.e. the regulation).

The objective of the article prepared jointly by **L. Etel, M. Popławski, pt. Uchwała w sprawie opłaty targowej a pomoc publiczna (A resolution on market fee and public aid), "Przegląd Podatków Lokalnych i Finansów Samorządowych" 2009, no. 2, p. 25-29** was to present problems which may emerge in taking resolutions concerning market fee in the context of public aid. They may be illustrated with the following questions: Is introducing diversified rates and tax exemptions acceptable in view of the public aid regulations? Beside this question there also emerges a doubt about the legality of introducing in a resolution a very high diversification of rate heights of the market fee within the one commune. Three questions were raised in the conclusions of this paper. First, most of the diversified rates and tax exemptions introduced by the resolutions are legal and are not a type of public aid unless the regulations introduced: intervene in free competition in the EU dimension, aim at preferring concrete businesses or businesspeople, introduce preferential taxation on businesses of a particular region at the expense of entrepreneurs from other member-states who potentially launch a business on the territory of the commune where the analysed legal solutions were introduced. The regulations included in the resolution concerning market fee should be constructed on the bases of the objective criteria. Second, it was also recognised as acceptable that there exists a high diversification in the rate height connected with the place where the sale takes place if these rates fit the limits determined by the maximal rate for market fee. This diversification should be also based of the purely objective criterion. Third, the exemptions introduced in market fee are legal if they are addressed to all sellers in defined places. They should not prefer any particular type of business or categories of entrepreneurs. A similar subject-matter is discussed in the article **Uprawnienia rad gmin do określania**

stawek podatkowych - wybrane kwestie (Entitlements of commune councils to determine tax rate: selected questions), in: M. Popławski (ed.), *Podatki i opłaty lokalne w praktyce (Local taxes and fees in practice)*, Warsaw 2008, p. 161-171, where problems connected with tax rate diversification of the nature of public aid were emphasised.

Here it is important to devote some attention to the study entitled *Wzory uchwał dotyczących danin lokalnych (Specimens of resolutions on local levies)*, by L. Etel, M. Popławski, in: C. Kosikowski and J. M. Salachna (ed.), *Finanse samorządowe. 580 pytań i odpowiedzi. Wzory uchwał, deklaracji, decyzji, umów (Local government finance. 580 questions and answers. Specimens of resolutions, declarations, decisions, agreements)*, Warsaw 2012, p. 899-922, which demonstrated specimens of the most important tax resolutions.

An important research thread concerning tax resolutions was the assessment of the quality of tax resolutions resulting from the supervision exercised by regional accounting chambers and administrative courts' control. The articles titled *Zgodność z prawem uchwał w sprawie podatków i opłat samorządowych (Legality of resolutions on local government taxes and fees)*, [Parts 1 and 2], "Przegląd Podatków Lokalnych i Finansów Samorządowych" 2004, No. 2, p. 3-10 and also No. 3, p. 9-13 presented reservations reported by the Regional Accounting Chamber in Białystok in the years 2002 and 2003 as well as partly 2004. The investigation embraced approximately 600 tax resolutions under the supervision of the aforesaid institution. Within the framework of these studies the drawbacks indicated by the RAC were analysed and an attempt at finding their origins was taken. These articles pointed, as the reasons for this state of affairs, at imprecise regulations prepared on the central level, which contain entitlements of communes to legislative actions, and the lack of appropriate preparation of the people in communes who deal with preparing acts of local law on taxes. The research subject in point was presented in the subsequent articles written jointly by M. Popławski, R. Dowgier, titled *Uchwały podatkowe - problemy interpretacyjne wynikające z rozstrzygnięć RIO (Tax resolutions: interpretative problems as effects of RACs' decisions)*. [Parts 1 and 2], "Przegląd Podatków Lokalnych i Finansów Samorządowych" 2004, No. 10, p. 1, 3-17 and also No 11 p. 1, 6-18. This time, however, the number of tax resolutions under the investigation was higher. We analysed 1052 resolutions under the supervision of eight regional accounting chambers in the period 2002-3. The continuation of the research resulted in the article titled *Uchwały podatkowe gmin - wybrane problemy (Tax resolutions of communes: selected problems)*, selected and commented on by M. Popławski, K. Gawrońska, in: P. Pietrasz, K. Gawrońska, D.

Kościuk (ed.), *Funkcjonowanie samorządu gminnego w Polsce (Functioning of the commune self-government in Poland)*, Białystok -Warszawa, 2012, p. 133-150. This study presented, among other things, collective effects of the supervision exercised by regional accounting chambers in the period 2003-10.

The basic aim of the article *Sądowa kontrola działalności prawodawczej rad gmin w zakresie uchwał podatkowych (Judicial control over the legislative activity of commune councils in the field of tax resolutions)*, "Przegląd Podatków Lokalnych i Finansów Samorządowych" 2012, No 3, p. 16-18 was to establish if administrative courts in Poland often evaluate tax resolutions and to examine what is questioned in respect of the judicial control of the acts of local law in point. The research presented in the aforesaid article demonstrates that tax resolutions are subject to very rare judicial inspection exercised by administrative courts. Also there are not many complaints filed by communes against the supervisory decisions of RACs. Seldom do other entities, for example tax payers, use opportunities to appeal to court against the tax resolutions of commune councils. These conclusions indicate that the role of administrative courts in controlling tax resolutions is not very important.

5.2.2. The second research field being a subject of my research interest is **problems resulting from the application of provisions regulating the structure of local taxes and fees**. Within this subject matter the subject of analysis is foremost property tax. A few studies are dedicated to agricultural tax and market fee. It is important to underscore, however, that I also wrote **articles of general nature** dedicated to the principles of property taxation in Poland (see. M. Popławski, Taxation of real estates in Poland⁵, "Revista Română de Drept al Afacerilor" 2008, no. 4, p. 47-52., which is in English) as well as **cross-sectional studies basically concerning all structural elements of property tax and the issues concerning agricultural tax and local fees** (see: M. Popławski, Analiza wyjaśnień Ministerstwa Finansów dotyczących podatków i opłat lokalnych - wybrane zagadnienia (The analysis of explanations of the Ministry of Finance concerning local taxes and fees: selected issues [Parts 1, 2 and 3], "Przegląd Podatków Lokalnych i Finansów Samorządowych" 2005, No. 4, p. 6-12, No. 5, p. 8-15 and no. 6, p. 3-10).

Among the studies concerning problems arising in the field of provisions regulating the structure of property tax the following types of issues may be distinguished:

⁵ The Polish translation of the title is: "Opodatkowanie nieruchomości w Polsce"

- **taxation on land** (see: M. Popławski, R. Dowgier, Opodatkowanie gruntów zajętych na poligony, (Taxation on the land occupied by military training areas), "Przegląd Podatków Lokalnych i Finansów Samorządowych" 2005, no. 7-8, p. 16-25; M. Popławski, R. Dowgier, Opodatkowanie gruntów pod wodami - wybrane problemy (Taxation on the land under water), "Finanse Komunalne" 2006, no. 9, p. 21-28; L. Etel, M. Popławski, R. Dowgier, Opodatkowanie gruntów pod morskimi wodami wewnętrznymi przed 2007 r. (Taxation on the land under internal sea waters before 2007), "Przegląd Podatków Lokalnych i Finansów Samorządowych" 2010, no. 2, p. 1, 9-12),
- **taxation on part of common land and buildings in the case of separation of housing premises** (see: M. Popławski, Odrębna własność lokali a opodatkowanie nieruchomości wspólnych (Separate ownership of housing premises and taxation on common property), "Prawo i Podatki" 2008, no. 11, p. 18-22),
- **taxation on structures** (M. Popławski, R. Dowgier, Podziemny parking - budynek czy budowla? (An underground car park: a building or a structure), "Przegląd Podatków Lokalnych i Finansów Samorządowych" 2005, no. 11, p. 6-11; M. Popławski, Glosa do wyroku NSA z dnia 27 stycznia 2006 r (A gloss to the decision of the Supreme Administrative Cort of 27 January 2006), sygn. akt FSK 2316/04, "Przegląd Podatków Lokalnych i Finansów Samorządowych" 2008, no. 12, p.3-5, which demonstrated the question of understanding the definition of structure in the context of property tax); L. Etel, M. Popławski, Opodatkowanie tablic reklamowych podatkiem od nieruchomości (Taxation on billboards as a property tax), "Przegląd Podatków Lokalnych i Finansów Samorządowych" 2008, no. 9, p. 10-12; M. Popławski, R. Dowgier, Opodatkowanie podatkiem od nieruchomości odwiertów geotermalnych (Taxation on geothermal boreholes by means of property tax), "Przegląd Podatków Lokalnych i Finansów Samorządowych" 2009, no. 12, p. 15-18; L. Etel, M. Popławski, Czy elektrownie wiatrowe podlegają opodatkowaniu podatkiem od nieruchomości (Are wind farms subject to property tax?), "Przegląd Podatków Lokalnych i Finansów Samorządowych" 2009, no. 6, p. 1, 14-17,
- **taxation on the property being the possession of a commune** (M. Popławski, Opodatkowanie nieruchomości stanowiących własność gminy - wybrane kwestie (Taxation on the property being the possession of a commune), "Finanse Komunalne" 2011, no. 5, p. 39-44, M. Popławski, Wyłączenie z opodatkowania w podatku rolnym i od nieruchomości przysługujące gminie (Exampntions of a commune from taxation in agricultural tax and property tax), "Finanse Komunalne" 2011, no. 3, p. 32-35;

- **determining the tax basis** (M. Popławski, Glosa do wyroku Wojewódzkiego Sądu Administracyjnego w Olsztynie z dnia 13 maja 2004 r. (I SA/OI 12/04) (A gloss to the decision of the Provincial Administrative Court in Olsztyn of 13 May 2004), "Przegląd Orzecznictwa Podatkowego" 2005, no. 3, p. 214-219, which critically discusses the court's capacity of establishing the value of part of a structure for the needs of property tax).
- **emerging a tax obligation** (M. Popławski, R. Dowgier, Podatek od nieruchomości - nowe części budynków (Property tax: new parts of buildings), "Nieruchomości" 2006, no. 9, p. 23-27),
- **tax rates** (M. Popławski, Przedsiębiorstwo w stanie upadłości prowadzące działalność gospodarczą, (A company under bankruptcy running business), "Przegląd Podatków Lokalnych i Finansów Samorządowych" 2005, no. 11, p. 1, 3-4)

In the field of **agricultural tax** there appeared studies concerning the rules of taxation on farmland acquired by the entity running business (see: M. Popławski, Opodatkowanie użytków rolnych będących w posiadaniu przedsiębiorcy (Taxation on the farmland being the possession of an entrepreneur), "Przegląd Podatków Lokalnych i Finansów Samorządowych" 2006, no. 12, p. 5-12) as well as exemptions of a commune from agricultural tax (see M. Popławski, Wyłączenie z opodatkowania w podatku rolnym i od nieruchomości przysługujące gminie (A commune's exemption from the agricultural and property taxes), "Finanse Komunalne" 2011, no. 3, p. 32-35)

Market fee was a subject of my analysis in the articles Sprzedaż w budynkach i tymczasowych obiektach budowlanych a opłata targowa (Sale in buildings and temporary structures and market fee), "Przegląd Podatków Lokalnych i Finansów Samorządowych" 2009, no. 9, p. 21-29, as well as Rozważania wokół zakresu przedmiotowego opłaty targowej (Reflections on the subject range of market fee), in: G. Liszewski (ed.), Opłaty samorządowe w Polsce - problemy praktyczne (Local government fees in Poland: practical problems), Białystok 2010, p. 217-234.

5.2.3. The third research field being a subject of my interest embraces **problems resulting from the application of the Tax Ordinance Law**. However we can name **publications of general nature** which aim at presenting the functioning of the provisions of this law in a broader context (R. Dowgier, M. Popławski, Podstawowe zagadnienia materialnego prawa podatkowego zawarte w Ordynacji podatkowej, stosowane przez gminne organy podatkowe (Basic issues of the material tax law included in the Tax Ordinance Law, applied by commune tax organs), in: M. Popławski (ed.), Wymiar i pobór podatków i opłat lokalnych (The

assessment and collection of local taxes and fees), Białystok 2009, p. 112-162); B. Pahl, M. Popławski, Zmiany w ustawie Ordynacja podatkowa w 2009 r. (Amendments to the Tax Ordinance Law in 2009) [Part I], "Przegląd Podatków Lokalnych i Finansów Samorządowych" 2009, no 1, p. 18-29)

Within this research field we may single out the following issues being the subject of analysis:

- **tax rulings** (L. Etel, M. Popławski, Interpretacja przepisów prawa daninowego w świetle ustawy o swobodzie działalności gospodarczej i ustawy - Ordynacja podatkowa (Tax rulings in view of the Act on Free Business and the Tax Ordinance Law), "Przegląd Ustawodawstwa Gospodarczego" 2009, no. 11, p. 21-25; M. Popławski, Indywidualne interpretacje prawa podatkowego (Individual tax rulings), "Finanse Publiczne" 2007, no. 5, p. 45-50),
- **expiry of tax obligations** (L. Etel, B. Pahl, M. Popławski, Wygasanie zobowiązań podatkowych a przedawnienie (Expiry of tax obligation vs. lapse), "Jurysdykcja Podatkowa" 2007, no. 3, p. 81-86; M. Popławski, Wygaśnięcie zobowiązania podatkowego przez zaokrąglenie, czyli nowe zasady zaokrąglania podatków płatnych w ratach (Expiry of tax obligation by rounding or new rule of rounding taxes payable in installments), "Przegląd Podatków Lokalnych i Finansów Samorządowych" 2006, no. 3, p. 1, 26-28),
- **overpayment** (M. Popławski, Podmioty uprawnione do uzyskania nadpłaty - wybrane kwestie (Entities entitled to overpayment: selected questions), in: M. Popławski (ed.), Ordynacja podatkowa. Zagadnienia proceduralne (The Tax Ordinance Law: procedural issues), Białystok 2011, p. 280-287; M. Popławski, Forma stwierdzenia nadpłaty przez organ podatkowy (The form of finding an overpayment by a tax organ), "Przegląd Podatkowy" 2003, no. 12, p. 50-53),
- **correction of tax declarations** (M. Popławski, Korekta deklaracji podatkowych - problemy praktyczne (Correction of tax declaration: practical problems) in: Ordynacja podatkowa w praktyce : materiały konferencyjne (The Tax Ordinance Law in practice: conference papers), Białystok 2007, p. 47-57; M. Popławski, Korekta deklaracji i informacji w podatkach lokalnych (Correction of declarations and information in local taxes) in: W. Miemiec (ed.), Gospodarka budżetowa jednostek samorządu terytorialnego 2006 (The budget economy of local government units 2006), Wrocław 2006, p. 381-396),
- **delivery of tax documents** (M. Popławski, Doręczanie decyzji podatkowych - wybrane problemy (Delivery of tax decisions: selected problems), "Przegląd Podatków Lokalnych i Finansów Samorządowych" 2006, no. 7/8, p. 27-29, Głosa do wyroku WSA z 11 maja 2005 r. (A gloss to the decision of the Provincial Administrative Court of 11 May 2005), I SA/Bd

130/05, "Prawo i Podatki" 2006, no. 12, p. 32-35, where I approve of the thesis expressed by the Court on the effectiveness of decision delivery without a proxy),

- **responsibility of third parties** (M. Popławski, R. Dowgier, Odpowiedzialność podatkowa nabywców nieruchomości nabytych w ramach postępowania upadłościowego (Tax responsibility of purchasers of the property purchased in a bankruptcy proceedings), "Przegląd Podatkowy" 2006, no. 10, p. 49-54)

- **reinstatement of a deadline for completion of a certain action** (M. Popławski, Glosa do uchwały NSA w Warszawie z dnia 21 kwietnia 2009 r. (A gloss to the resolution of the Superior Administrative Court in Warsaw of 21 April 2009), II FPS 9/08, "Gdańskie Studia Prawnicze. Przegląd Orzecznictwa" 2010, no. 2, p. 131-138, where I dispute the Court's decision on the consequence of failing to submit an appeal simultaneously with an application for reinstatement of the deadline.),

- **tax inspection** (M. Popławski, Komentarz do przepisów 281-292 Ordynacji podatkowej w: Ordynacja podatkowa. Komentarz, (A commentary on provisions 281-292 of the Tax Ordinance Law, in: C. Kosikowski, L. Etel, R. Dowgier, P. Pietrasz, M. Popławski, S. Presnarowicz, The Tax Ordinance Law. A commentary, Warszawa 2011. p. 1205-1297); M. Popławski, Uprawnienia kontrolującego w trakcie kontroli podatkowej (Entitlements of the inspector during a tax inspection), in: R. Dowgier (ed.), Ordynacja podatkowa. Wokół nowelizacji (The Tax Ordinance Law: around the amendment), Białystok 2009, p. 334-349; M. Popławski, Wszczęcie kontroli podatkowej po wyznaczeniu reprezentanta na podstawie art. 281a Ordynacji podatkowej (Initiation of a tax inspection after appointing a representative on the basis of Article 281a of the Tax Ordinance Law), in: R. Dowgier (ed.), Ordynacja podatkowa. Kontrola realizacji zobowiązań podatkowych (The Tax Ordinance Law: Control over the implementation of tax obligations), Białystok 2012, p. 211-226).

5.2.4. The fourth research field being the subject of my interests is selected tax issues other than mentioned in points 5.2.1.-5.2.3. Within this subject matter we may distinguish the following issues being the subject of analysis:

- **tax issues concerning public-private partnership** (M. Popławski, Partnerstwo publiczno-prywatne na gruncie podatków dochodowych (A public-private partnership in the field of income taxes), in: M. Perkowski (ed.), Partnerstwo międzysektorowe. Możliwości, zasady, realizacja (An inter-sector partnership: opportunities, principles and realisation), Białystok 2009, p. 120-129; M. Popławski, Zmiany w prawie podatkowym wprowadzone ustawą o partnerstwie publiczno-prywatnym (Changes in tax law introduced by the Act on Public-

Private Partnership), in: M. Perkowski (ed.), *Partnerstwo publiczno-prywatne : zagadnienia teorii i praktyki (A public-private partnership: issues of theory and practice)*, Białystok 2007, p. 102-113),

- **tax sanctions** (M. Popławski, *Legal Sanctions in Tax Law*, in: M. Popławski and D. Šramková (ed.), *Legal Sanctions. Theoretical and Practical Aspects in Poland and the Czech Republic*, Brno - Białystok 2008, p. 379-388),

- **tax reliefs in personal income tax** (M. Popławski, *Glosa do wyroku WSA w Gdańsku z dnia 21 lipca 2004 r. (A gloss to the decision of the Provincial Administrative Court in Gdańsk of 21 July 2004)*, I SA/Gd 457/01, "Gdańskie Studia Prawnicze. Przegląd Orzecznictwa" 2006, no. 2, p. 109-115; in this article I challenge the position of the Court as to the possibility of exercising the so-called rehabilitation reduction by the tax payer.

- **nature of reductions and exemptions being public aid** (M. Popławski, *Charakter ulg i zwolnień podatkowych będących pomocą publiczną (The nature of reductions and tax exemptions being public aid)*, "Monitor Podatkowy" 2005, no. 7, p. 31-38).

5.2.5. My academic interests resulted also in textbooks on tax law, of which I am an author of a co-author. Part of them were **written in English**. These are:

M. Popławski, *Introduction to Polish Tax Law*, Series: Białystok Law Books Białystok 2011. pp. 203

M. Popławski, *Polish Tax Law*, Białystok 2008, pp. 91 (course materials),

My other output in this field written in Polish:

M. Popławski, *Międzynarodowe prawo podatkowe (International tax law)*, in: L. Etel (ed.), *Prawo podatkowe (Tax law)*, Warsaw 2008, p. 78-109,

M. Popławski, *Doradztwo podatkowe (Tax consulting)*, in: L. Etel (ed.), *Prawo podatkowe (Tax law)*, Warsaw 2008, p. 300-304,

M. Popławski, *Odpowiedzialność podatkowa (Tax accountability)*, in: C. Kosikowski, E. Ruśkowski (ed.), *Finanse publiczne i prawo finansowe (Public finance and finance law)*, Warsaw 2008, p. 517-525,

M. Popławski, *Wygasanie zobowiązań podatkowych (Expiry of tax obligations)*, in: L. Etel (ed.), *Prawo podatkowe. Podręcznik w pytaniach i odpowiedziach (Tax law: A textbook in questions and answers)*, Warsaw 2006, p. 272-287,

M. Popławski, Ulgi w spłacie zobowiązań podatkowych (Reductions in tax obligation repayment), in: L. Etel (ed.), Prawo podatkowe. Podręcznik w pytaniach i odpowiedziach (Tax law: A textbook in questions and answers), Warsaw 2006, p. 288-297,

M. Popławski, Nadpłata (Surplus payment), in: L. Etel (ed.), Prawo podatkowe. Podręcznik w pytaniach i odpowiedziach (Tax law: A textbook in questions and answers), Warsaw 2006, p. 298-305,

M. Popławski, Korekta deklaracji, informacje podatkowe, rachunki (Correction of declarations, tax information, bills), in: L. Etel (ed.), Prawo podatkowe. Podręcznik w pytaniach i odpowiedziach (Tax law: A textbook in questions and answers), Warsaw 2006, p. 306 -310.

M. Popławski, Kazusy (Cases), in: L. Etel (ed.), Prawo podatkowe. Podręcznik w pytaniach i odpowiedziach (Tax law: A textbook in questions and answers), Warsaw 2006, p. 358 -366.

M. Popławski, Doradztwo podatkowe (Tax consulting), in: L. Etel (ed.), Prawo podatkowe. Podręcznik w pytaniach i odpowiedziach (Tax law: A textbook in questions and answers), Warsaw 2006, p. 387-398,

M. Popławski, Harmonizacja prawa podatkowego w Unii Europejskiej (Harmonisation of tax law in the European Union), in: L. Etel (ed.), Prawo podatkowe. Podręcznik w pytaniach i odpowiedziach (Tax law: A textbook in questions and answers), Warsaw 2006, p. 399-411.

5.3. Authorship and co-authorship of a particular area respectively: collective studies, catalogues of collections, documentation of research papers, expert's reports,

R. Dowgier, M. Popławski, Podatki i opłaty w gminie 2010. Wybór aktów prawnych (Taxes and fees in the commune 2010. A selection of legal acts), Warsaw 2010, pp. 248

R. Dowgier, M. Popławski, Podatki i opłaty w gminie 2012. Wybór aktów prawnych (Taxes and fees in the commune 2012. A selection of legal acts), Warsaw 2012, ss. 294

The selection of legal acts performed in these studies was foremost based on the object criterion (taxes and fees) and the subject (implemented by commune tax organs). Beside tax regulations there are also other acts which may be helpful in applying the regulations of material law. An essential element of these collections is the fact that provisions of tax acts of law were connected in it with acts of other branches of law (e.g. construction law) through references in particular notes. Thus we wrote a specific commentary on tax regulations, which, through the systematic interpretation, should often be read with the use of terminology from other acts of law. My contribution in this work involved preparing an extract from 49 legal acts connected with the Act of 12 January 1991 on Local Taxes and Fees, an extract

from 9 legal acts concerning the Act of 15 November 1984 on Agricultural Tax, as well as an extract from 3 acts connected with the Act of 30 October 2002 on Forest Tax. The percentage of my participation is estimated as 50%.

5.4. The total impact factor according to the list of Journal Citation Reports (JCR), in accordance with the year of publication: none

5.5. The number of publications quotations according to the base Web of Science (WoS): none

5.6. The Hirsch Index according to the base Web of Science (WoS): none

5.7. International and national research project management and participation in such projects

1) grant manager of the Ministry of Science and Higher Education no. N N110 183437 titled: Entitlements of the tax payer being a basis of claiming money due from the Treasury or local government units, the years 2009-2012

2) grant manager of the Ministry of Science and Higher Education no. N N110 130333 "Tax refund: assumptions and praxis", the years 2007-2009

3) grant performer of the Ministry of Science and Higher Education no. N N110 183 637 "The reform of local tax law in Poland", the years 2009-2011

4) grant performer of the Committee for Scientific Research no. H02A 008 27 "Supervision over creating and applying tax law under the Constitution of the Republic of Poland", the years 2004-2006

5) grant performer of the Committee for Scientific Research no. H02A 014 25 "Assumptions of the property tax reform in Poland", the years 2003-2004

5.8. International and national awards for academic or artistic work

1) The Award for scientific work of the Rector of the University of Bialystok of 10 October 2003

2) The Award for scientific work and organizational activity of the Rector of the University of Bialystok of 10 October 2006

5.9. Presentations at international and national thematic conferences

5.9.1. Presentations at international conferences

- 1) **Warsaw 25.11.2009:** “Effect of accession. Insights into possible common future for New EU member state domestic tax systems”, workshop “Property taxation within CEE” (a presentation in English titled Real estate taxation in Central and East European Countries – introduction).
- 2) **Gdańsk-Nynashamn-Stockholm, 8-11.11.2010:** International Baltic Conference on Financial Law, (a presentation in Polish titled “Surplus payment, tax refund and damages as a tax entitlement in Polish law” published in: A. Dobaczewska, E. Juchniewicz, T. Sowiński (ed.), *Daniny publiczne : prawo finansowe wobec wyzwań XXI wieku* (Public levies: financial law and challenges of the 21st century), Warszawa 2010, p. 69-76)
- 3) **Voronezh, Russia 29-31.03.2012:** International Theoretical and Practical Conference Tax and Budget Law: Modern Problems of Property Relations, (a presentation in Polish titled The essence and purposes of tax refunds, published in: M. V. Karasevoj (Sencovoj) (ed.), *Tax and Budget Law. Modern Problems of Property Relations. Materials of International theoretical and practical conference*, Voronezh 2012, s. 164-170).

5.9.2. Presentations at Polish conferences

- 1) **Białystok 13-14.12.2004:** The property tax reform (the presentation titled “Property taxes in resolutions of commune councils”)
- 2) **Augustów 2-4.02.2005:** Local government taxes and fees and accountability of organs for illegal actions or negligence in exercising public power (the presentation titled: “Faults in tax resolutions detected by regional accounting chambers);
- 3) **Międzyzdroje 27-28.05.2005:** Healing public finance in Poland: legal and economic aspects: (the presentation: “Problems connected with the application of selected regulations for local taxes resulting from judicial decisions and regional accounting chambers” published in: K. Święch, A. Zalcewicz (ed.), *Sanacja finansów publicznych w Polsce. Aspekty prawne i ekonomiczne* (Healing public finance in Poland. Legal and economic aspects), Szczecin 2005, p. 161-170
- 4) **Białystok 09.03.2007:** The Tax Ordinance in practice (the presentation: Correction of tax declaration: practical problems, published in: *Ordynacja podatkowa w praktyce. Materiały konferencyjne* (The Tax Ordinance Law in practice. Conference papers). Białystok 2007, p. 47-57
- 5) **Łódź 10.03.2008;** Local government taxes and fees. Practical problems (the presentation: “Taxation on land: selected problems);

- 6) **Białystok** 23-24.04.2008: Local taxes in practice (the presentation: "The rights of the commune council to determine tax rates and introduce tax exemptions and reductions);
- 7) **Mikołajki** 3-5.06.2009: Local fees (the presentation: "Market fee: selected problems),
- 8) **Włocławek** 23.02.2010: All-Poland Academic Conference "Property tax: current problems of theory and praxis" (the presentation: "Forming tax preferences by communes"),
- 9) **Augustów** 6-7.06.2011: The Tax Ordinance Law in practice. Inspection procedures, (the presentation: "Initiation of a tax inspection"),
- 10) **Zakopane** 13-15.10.2011: The First Cracow Symposium on Tax Law "Tax Law: Science, Education, Praxis", (the presentation: "Tax resolutions in the supervision of regional accounting chambers"),
- 11) **Mońki** 28.10.2011: 1st Scientific Conference "Practical aspects of local tax and fee collection", (the presentation: "Tax resolutions in the judicial praxis of RACs: questioned records),
- 12) **Augustów** 1-2.12.2011: The reform of local taxes and fees in Poland (the presentation: "Drawbacks of tax resolutions"),
- 13) **Toruń** 14.05.2012: 94th Tax Conference "The property tax from entrepreneurs", (the presentation: "Taxation on the property in possession of the entities running their business other than entrepreneurs in understanding of the Act on Freedom of Business Activity"),
- 14) **Krasnystaw** 15.06.2012: Levy obligations of entrepreneurs (the presentation: Taxation on property in possession of entrepreneurs: selected problems).

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