

Summary of the PhD Thesis

Instrumental obligations in tax law

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The subject matter of the analysis conducted within the dissertation are instrumental obligations - in particular taking under consideration some of the limits for their stipulation and application.

The aim of the thesis is an analysis of the instrumental obligations with the particular stress on their "intensity" in tax law. It's aim is also to answer the question whether there are limits for formalism in tax law (understood as presence and intensity of instrumental obligations in tax law).

The main thesis of the dissertation is as follows: Formalism of tax law understood as the presence and intensity of instrumental obligations has its limits. Those limits are determined by the function of instrumental obligations in tax law, by constitutional and EU law principle of proportionality as well as constitutional equality principle. Those limits determine directives for legislator stipulating tax provisions as well as for tax authorities applying the law.

The aforementioned thesis of the dissertation was confirmed in five chapters.

In the first chapter of the dissertation the notion of instrumental obligations was explained and clarified. In order to achieve this aim determination of function of instrumental obligations was conducted as well as delimitation of the notion of those obligations and analysis of the relation of this notion to some of other basic theoretical notions from the area of tax law (such as the notion of tax, subject of taxation, tax sanction). Based on that analysis directives (postulates) for legislator and tax authorities were formulated – in particular a directive to take under consideration the function exercised by instrumental obligations.

In the second chapter the hypothesis was confirmed that the principle of proportionality (both constitutional as well as resulting from the EU law) forms a boundary for legislator in stipulation of instrumental obligations and also for tax authorities in application of those obligations. The hypothesis was confirmed through the analysis of theoretical conclusions on principle of proportionality, analysis of conclusions of constitutional law jurisprudence, analysis of the case law of Constitutional Tribunal, as well as the analysis of the EU law and the case law of the Court of Justice of the European Union concerning the principle of proportionality.

In the third chapter the hypothesis was confirmed that the instrumental obligations in certain circumstances may breach the constitutional equality principle. This hypothesis was confirmed by theoretical analysis of the equality principle, analysis of the most important conclusions of constitutional law jurisprudence concerning equality principle and also analysis of the case law of the Constitutional Tribunal concerning different aspects of formalism in law.

In the fourth chapter an analysis of the value of truth in law in the context of instrumental obligations was conducted. In this chapter the hypothesis was confirmed that provisions concerning instrumental obligations may be unconstitutional on the grounds that they may lead to counterfactual conclusions (in a certain specific meaning).

In the fifth chapter, basing on the conclusions resulting from the preceding four, a number of detailed research questions was formed. Those questions served to conduct an analysis of the tax law provisions concerning instrumental obligations from six different selected tax law acts. The conducted

analysis confirmed some of the theoretical conclusions made in preceding chapters and lead to modification of them to some extent. It also lead to formulation of general conclusions concerning tax provisions in force and served to formulate critical remarks directed towards legislator concerning wording and content of the provisions analyzed. Finally, it confirmed and broadened the *de lege lata* and *de lege ferenda* conclusions indicated in the preceding parts of the dissertation.

In the conclusions the reasoning contained in the dissertation was summarized and the *de lege lata* and *de lege ferenda* conclusions were emphasized.

The importance of the problems raised and analyzed in the dissertation is very clear and so the grounds for choosing this subject matter for a dissertation. There are either no monography studies on the subject of instrumental obligations in tax law literature, nor there are any significant signs of debate on (or awareness of) importance of obligations arising from the tax law different than the obligation to pay the tax. Additionally, gradually progressing formalization of the tax law (by increasing the number and "interference" of the instrumental obligations), disadvantageous economic consequences of this phenomenon resulting in resignation by tax payers from certain economic undertakings due to formal tax obligations, cost increase caused by formalisation of tax law, the high degree of interference within the freedoms and rights of human and citizen by instrumental obligations, inadequacy of the content of those obligations to the dynamics of the economy – are also the crucial causes confirming the importance of the subject matter of the dissertation.

Shorter version (1400 characters)

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Królewiec, 31.08.2017r.