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Tax Evidence Proceedings in Polish Tax Law – General Characteristics

ABSTRACT:

Along with the evidence, evidence proceedings represent a key element of tax proceedings regulated by the Tax Ordinance Act (TOA) of August 29, 1997. It seems to be most essential stage due to its expediency and legitimacy. Therefore, it is important to be aware when all legally available methods to provide evidence get exhausted. Due to an open evidence catalogue it is possible to make findings in any legally permissible mode. Besides, evidence in tax proceedings has equal evidentiary value and should not be prioritized. Activities like obtaining, gathering or evaluating the evidence collected through a case must meet all the requirements of the law. Therefore, the tax administration authority, a party and other entities involved in the proceedings are obliged to perform the statutorily indicated activities and duties to comply with the general principles of tax proceedings, as they constitute a model of proper procedures.

Keywords: tax proceedings, evidence proceedings, tax law, evidence, general principles of tax proceedings.

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I. Introduction

Tax proceedings considered through the prism of expediency should be understood as the implementation of the substantive tax law provisions. Its function focuses on determining the legal and tax situation of the taxpayer. As a result, the tax authority makes a decision concerning a specific case.¹ As part of the tax proceedings, individualized external administrative acts are created – like tax decisions. They specify the rights and obligations of the legal-tax relationship subject.² The tax authority is obliged to initiate all actions required to accurately define and clarify the facts. All this involves collection and exhaustive consideration of the evidence, as well as its evaluation under legal regulations through logical principles and life experience.³ Tax proceedings are not of adversary nature⁴, for in tax proceedings relationships between the tax authority and the taxpayer are characterized by the superior position of an administrative body.⁵

Evidence proceedings are considered to be the process of providing evidence. Its course and results directly affect decisive settlements.⁶ Taking into account its legitimacy and expediency, it is the most important stage of tax proceedings. In turn, evidence represents the basic instrument for achieving all mentioned above.⁷ Evidence proceedings consist in collecting evidence and drawing conclusions according to it. The substance of the evidence proceedings is determination of the facts in the context of a specific legal and tax norm. Therefore, tax evidence proceedings do not represent a goal. They constitute a search for an answer whether sometimes taxpayer's situation qualifies for the hypothesis of a certain substantive tax law norm.⁸

¹ Dąbrowski A., *Postępowanie dowodowe*, in: *Postępowanie w sprawach podatkowych. Komentarz praktyczny*, edited by D. Malinowski, Warsaw, 2004, 121.

² Walkowski G. K., *System polskiego prawa podatkowego w praktyce: wybrane zagadnienia. Tom I, Podstawowe procedury podatkowe*, Bydgoszcz, 2012, 43.

³ Staniszewski M., *Postępowanie podatkowe. Kontrola podatkowa*, Warsaw, 2011, 146.

⁴ Brzeziński B., Masternak M., *O tak zwanym ciężarze dowodu w postępowaniu podatkowym*, *Przegląd Podatkowy*, No. 5, 2004, 57.

⁵ Judgment of the Supreme Administrative Court of April 11, 2012, II FSK 1921/10, LEX No 1137624; Nowak I., *Uznanie okoliczności faktycznych za udowodnione w świetle czynnego udziału podatnika w procedurze podatkowej*, *Prawo Budżetowe Państwa i Samorządu*, No. 3, 2019, 23.

⁶ Dąbrowski A., *Postępowanie dowodowe*, in: *Postępowanie w sprawach podatkowych. Komentarz praktyczny*, edited by D. Malinowski, Warsaw, 2004, 122.

⁷ Rutkowski B., *Dowody w postępowaniu podatkowym*, Warsaw, 1999, 60.

⁸ Judgment of the Supreme Administrative Court of October 11, 2017, II FSK 1317/17, LEX No. 2400782; judgment of the Supreme Administrative Court of September 29, 2011, I FSK 1476/10, Legalis No. 379161; judgment of the Voivodeship Administrative Court in Szczecin of April 11, 2018, I SA/Sz 93/18, LEX No. 2482402; judgment of the Voivodeship Administrative Court in Cracow of

While proving something (thought process), some conclusions are made about the presence or absence of given facts resulting from the evidence.⁹ It is established whether the statements concerning these facts are true or false.¹⁰ Importantly, more evidence available to gather leads to greater certainty that the facts will be established following the material truth principle.¹¹

One of the most crucial elements of the evidence procedure is that the tax authority considers a given fact to be proven on the basis of the evidence. It consists of the totality of evidence, collection of which is required to accurately clarify the case facts.¹² The evidence must meet two basic criteria to properly resolve an individual case. Firstly, the evidence must allow the authority to define the case facts. Secondly, it must be considered thoroughly, scrupulously. Its completeness is an important feature, as the correct determination of actual state cannot rely on partial or incomplete material.¹³ It is essential to collect and consider everything without omitting any evidence in a way that the facts submitted for proof to be complete, coherent and logical whole.¹⁴

As part of the tax evidence proceedings, there are two auxiliary institutions that simplify the proceedings. The first is probability. This leads to a belief in the existence of specific factual circumstances, in a thought process that is not limited by the rules of evidence.¹⁵ The other auxiliary institution is the presumption,¹⁶ implying generally known facts, while the ones known to the authority as *ex officio* do not require any approval. The *ex officio* facts should be informed to the party.¹⁷ There is also an exception – the principle *in dubio pro tributario*, according to which doubts about the content of the tax law that cannot be removed are resolved in favour of the taxpayer.¹⁸

May 14, 2015, I SA/Kr 502/15, LEX No. 1756813; judgment of the Voivodeship Administrative Court in Bydgoszcz of July 23, 2013, I SA/Bd 309/13, Legalis No. 765630.

⁹ Staniszewski M., *Postępowanie podatkowe. Kontrola podatkowa*, Warsaw, 2011, 145.

¹⁰ Kędziora R., *Ogólne postępowanie administracyjne*, Warsaw, 2008, 192.

¹¹ Staniszewski M., *Postępowanie podatkowe. Kontrola podatkowa*, Warsaw, 2011, 145.

¹² Strzelec D., *Dowody w postępowaniu podatkowym*, Warsaw, 2013, 31.

¹³ Dąbrowski A., *Postępowanie dowodowe*, in: *Postępowanie w sprawach podatkowych. Komentarz praktyczny*, edited by D. Malinowski, Warsaw, 2004, 144.

¹⁴ Judgment of the Voivodeship Administrative Court in Cracow of March 24, 2021, I SA/Kr 9/21, LEX No. 3190574; judgment of the Voivodeship Administrative Court in Cracow of June 13, 2019, I SA/Kr 136/19, LEX No. 2697656; judgment of the Voivodeship Administrative Court in Warsaw of October 2, 2006, III SA/Wa 1352/06, Legalis No. 83194.

¹⁵ Judgment of the Supreme Administrative Court of October 21, 2011, I FSK 1649/10, LEX No. 1069308.

¹⁶ Rutkowski B., *Dowody w postępowaniu podatkowym*, Warsaw, 1999, 64.

¹⁷ Judgment of the Voivodeship Administrative Court in Białystok of May 18, 2005, I SA/Bk 47/05, Legalis No. 158155.

¹⁸ Article 2a TOA.

II. Evidence

Evidence should be understood as a means to demonstrate the truth of the circumstances relevant to a case resolution.¹⁹ According to the Tax Ordinance, anything contributing to the case clarification not being contrary to law should be admitted as evidence.²⁰ The Act indicates their exemplary catalogue, namely, tax books, party declarations, witnesses' testimonies, expert opinions, materials and information collected after visual inspection, tax information and other documents collected during analytical activities conducted by the National Tax Administration, verifying activities, tax inspection or customs and fiscal control and materials collected during criminal proceedings or those in case of fiscal crimes or fiscal offenses.²¹ Evidence can be classified any way without limitation to the statutory, exemplary catalogue. There is evidence of a material or personal nature.

In tax proceedings there is an open system of evidence of equal evidentiary value. Any introduction of restrictions as a type of evidence that should be prioritized while determining the presence of a given fact is impermissible.²² Moreover, it is impermissible to apply the formal theory of evidence, i.e., claiming that a particular event can only be proven by a certain type of evidence or in a certain mode.²³

In the context of means of evidence, the Tax Ordinance ensures restrictions conditioning formal correctness of evidence. In literature they are called evidentiary prohibitions. The general rule implies that evidence must not be contrary to the law. Therefore, the tax authority examines a given piece of evidence when the procedural rules do not exclude this. Thus, evidentiary prohibition can be described as actions concerning collection of evidence violating all the applicable provisions of the law by which they exclude the examination, or indicate the evidence that cannot be used within the framework of pending proceedings.²⁴

The fundamental importance during tax evidence proceedings is brought by the issue of the proof burden. However, there are many doubts as to who is responsible for this obligation. The Tax Ordinance regulations indicate the tax authority.

¹⁹ Dowody, in: Encyklopedia Popularna PWN, Warsaw, 1999, 183.

²⁰ Article 180 (1) TOA.

²¹ Article 181 TOA.

²² Judgment of the Voivodeship Administrative Court in Poznań of November 18, 2022, I SA/Po 111/22, LEX No. 3480303.

²³ Judgment of the Supreme Administrative Court of February 4, 2020, II FSK 635/18, LEX No 3059106.

²⁴ Strzelec D., Dowody w postępowaniu podatkowym, Warsaw, 2013, 37 and next.

This is due to the statutory duty to collect and exhaustively consider the evidence. However, such vague and general provisions cannot pose any grounds for deriving an exclusive obligation of the authority on the burden of proof.²⁵ Moreover, there is no clear legal regulation, which would strictly indicate an entity responsible for this burden.²⁶ However, the view expressed by the Supreme Administrative Court that a certain range of matters is beyond the capacity of the authority deserves approval. Therefore, the regulations of the Ordinance imposed an obligation on the authority to clarify the facts and not this state.²⁷ It is repeatedly emphasized in the judicature of administrative courts that anyone deriving legal consequences for himself from facts must prove these facts.²⁸

III. General principles of Tax Proceedings

Tax proceedings are carried out under general principles – the basic procedural rules. They do not constitute recommendations for action, but represent the norms of applicable law. Their function is to systematize interpretation of the rules, fill legal gaps and intensify a procedural position in tax proceedings.²⁹ They act not only as norms binding tax authorities, but set the limits for their behaviour.³⁰ They are undoubtedly only ideas, forming statutory legal rules making up an integral part of

²⁵ Olech M., Ciężar dowodu w postępowaniu podatkowym, in: *Ordynacja podatkowa w teorii i praktyce*, edited by B. Kucia-Guściora, M. Münnich, L. Bielecki and A. Krukowski, Lublin, 2008, 281.

²⁶ Hanusz A., *Podstawa faktyczna rozstrzygnięcia podatkowego*, Cracow, 2006, 193.

²⁷ Judgment of the Supreme Administrative Court of April 15, 2015, I GSK 648/13, *Legalis* No. 1311044; judgment of the Supreme Administrative Court of January 11, 2013, II FSK 1470/11, *Legalis* No. 594205; judgment of the Supreme Administrative Court of December 6, 2012, II FSK 182/11, *Legalis* No. 817229; judgment of the Supreme Administrative Court of May 28, 2008, II FSK 491/07, *Legalis* No. 119067; judgment of the Supreme Administrative Court of February 6, 2008, II FSK 1671/06, *Legalis* No. 111518.

²⁸ Judgment of the Supreme Administrative Court of June 12, 2015, II FSK 1262/13, *Legalis* No. 1311924; judgment of the Supreme Administrative Court of June 12, 2012, I FSK 1090/11, *Legalis* No. 778933; judgment of the Supreme Administrative Court of January 18, 2012, I FSK 343/11, *Legalis* No. 448370; judgment of the Supreme Administrative Court of April 24, 2007, I FSK 582/06, *LEX* No. 467334; judgment of the Supreme Administrative Court of January 13, 2000, I SA/Ka 960/98, *Legalis* No. 51025; judgment of the Voivodeship Administrative Court in Gliwice of March 18, 2022, II SA/Gl 1194/21, *LEX* No. 3337962; judgment of the Voivodeship Administrative Court in Bydgoszcz of January 15, 2020, II SA/Bd 769/19, *LEX* No. 2775922.

²⁹ Presnarowicz S., *Postępowanie podatkowe w systemie polskiego prawa podatkowego*, Warsaw, 2003, 37.

³⁰ Szumlakowski R., *Zasady prawne postępowania podatkowego organu administracji podatkowej w relacjach z podatnikiem*, in: *Prace Naukowe Wydziału Prawa, Administracji i Ekonomii Uniwersytetu Wrocławskiego*, edited by P. Borszowski, A. Huchla and E. Rutkowska-Tomaszewska, Wrocław, 2011, 213.

the procedural rules of tax law.³¹ Violation of general rules is equated with a breach of the law.³²

The following *numerus clausus* general principles are available in the Tax Ordinance (Articles 120-129 of the Tax Ordinance): the rule of law, principle of acting in a manner instilling confidence in the tax authorities, principle of providing information, principle of objective truth, principle of active participation of parties in the proceedings, persuasion principle, principle of insight, speed and simplicity of proceedings, principle of writing, principle of two-instance proceedings, principle of permanence of final decisions and openness principle of proceedings exclusively for the parties. This catalogue is of closed nature.

The rule of law³³ is an overriding principle of any democratic state and because of that it is called the rule of law.³⁴ It consists in the fact that tax authorities act on the basis of the law, i.e., laws and executive acts issued for their implementation.³⁵ Tax administration bodies ensure the rule of law. They do not only observe the law, but control all actions within each phase of proceedings in relation to other participants.³⁶

For the implementation of the proceedings' principle via instilling confidence, the tax authority shall act in such a way that no allegation of lack of objectivity can be made. The actions of the authority must not meet conditions for being considered pro-fiscal.³⁷

The information providing principle is expressed through the obligation of the authority to provide required information and explanations of laws directly associated with the subject matter of a pending case.³⁸ The information providing principle correlates with that of conducting proceedings in a manner that instils confidence for the tax administration authority is obliged to explain the case state as accurately as possible.³⁹

³¹ Mariański A., Rozstrzygnięcie wątpliwości na korzyść podatnika. Zasada prawa podatkowego, Warsaw, 2011, 108.

³² Judgment of the Supreme Administrative Court of June 4, 1982, I SA 258/82, Legalis No. 34718.

³³ Article 120 TOA.

³⁴ Staniszewski M., Postępowanie podatkowe. Kontrola podatkowa, Warsaw, 2011, 8.

³⁵ Presnarowicz S., Postępowanie podatkowe w systemie polskiego prawa podatkowego, Warsaw, 2003, 38.

³⁶ Staniszewski M., Postępowanie podatkowe. Kontrola podatkowa, Warsaw, 2011, 8.

³⁷ Dąbrowski A., Zasady ogólne postępowania, in: Postępowanie w sprawach podatkowych. Komentarz praktyczny, edited by D. Malinowski, Warsaw, 2004, 86.

³⁸ Judgment of the Voivodeship Administrative Court in Lublin of February 4, 2015, I SA/Lu 978/14, Legalis No. 1198028.

³⁹ Judgment of the Voivodeship Administrative Court in Olsztyn of April 14, 2015, I SA/Ol 120/15, Legalis No. 1272428.

The objective truth principle, regarded as the material truth principle, defines the obligation imposed on the tax authority, according to which it must take all measures to scrupulously clarify the facts of the case in tax proceedings and settle it in compliance with the law.⁴⁰ The principle of material truth is an axiological ideal to be pursued during the proceedings.⁴¹

The parties' active participation principle ensures participation in shaping the course of the proceedings including the final settlement.⁴² It is expressed by the fact that the tax authorities are obliged to ensure active participation of the parties at every stage of the proceedings and before issuing a decision, they should be given an opportunity to comment on the collected evidence and materials collected and requests having been made.⁴³

Implementation of the persuasion principle takes place via obligation of tax authorities to provide parties with an explanation of the relevance of the reasons used in the case settlement that enabled the party to implement the decision without coercive measures.⁴⁴ The persuasion principle imposes a certain obligatory action on the tax authority. It consists in the obligation to justify all the grounds on which the authority was guided in issuing this or that particular decision. This includes specification of the facts and legal basis as well.⁴⁵

To deal with a given tax case, based on the principle of insight, speed and simplicity of proceedings, tax authorities should act carefully and quickly. Simultaneously, the authorities should use the simplest means to do it. In addition, the cases in relation to which require no collection of evidence, information or explanations, should be dealt with immediately.⁴⁶

The writing principle means that, as a rule, tax matters are resolved in writing recorded electronically or on sheet of paper. The writing principle applies to decisions and resolutions and any action taken by authorities during tax proceedings,⁴⁷

⁴⁰ Staniszewski M., *Postępowanie podatkowe. Kontrola podatkowa*, Warsaw, 2011, 15.

⁴¹ Judgment of the Voivodeship Administrative Court in Łódź of April 16, 2010, I SA/Łd 1032/09, Legalis No. 352726.

⁴² Nowak I., *Czynny udział podatnika w podatkowym postępowaniu odwoławczym*, *Studia Prawno-Ekonomiczne*, No 79, 2009, 105.

⁴³ Article 123 (1) TOA.

⁴⁴ Article 124 TOA.

⁴⁵ Patyk J., *Zasady procedury podatkowej w Polsce*, <<https://shorturl.at/cvPSV>> [04.04.2023].

⁴⁶ Article 125 TOA.

⁴⁷ Judgment of the Supreme Administrative Court of Poland of January 13, 2012, I FSK 1106/11, Legalis No. 418271.

including summonses, minutes or annotations.⁴⁸ Undoubtedly, the writing principal addressees are tax authorities carrying out tax proceedings.⁴⁹

The two instances principle forces the tax authorities to examine and resolve a tax case twice,⁵⁰ i.e., by the first instance body and by the appellate authority afterwards. It is regulated directly by the provisions of the Constitution of the Republic of Poland, according to which each party is entitled to appeal the first instance rulings and decisions.⁵¹

The principle of permanence of final decisions should be understood as a norm ensuring the legal state stabilization resulting from a decision that is not subject to appeal.⁵² The cancellation or change of such decisions, their annulment and resumption of proceedings may take place only in cases ensured by law.⁵³ Any final decision has a presumption of correctness assumed in advance. The authority is bound by it until it is changed in a law-regulated manner.⁵⁴

The openness principle indicates that tax proceedings are open only to the parties.⁵⁵ From the point of view of its expediency, it is important to protect their interests from disclosure of information about the conduct and course of tax proceedings to any third parties. This is for the authority-obtained information directly related to the taxpayer's financial condition, which is quite sensitive. They are confidential and also covered by tax secrecy.⁵⁶

At each stage of the proceedings, the tax authority is obliged to make the case file available to the party.⁵⁷ This right is exercised by making it possible to review the

⁴⁸ Judgment of the Voivodeship Administrative Court in Olsztyn of August 26, 2010, I SA/Ol 443/10, Legalis No. 440959.

⁴⁹ Masternak M., Zasada ogólna pisemności w postępowaniu podatkowym, *Kwartalnik Prawa Podatkowego*, 2022, No. 3, 170.

⁵⁰ Teszner K., Czynności dowodowe w podatkowym postępowaniu odwoławczym, in: *Ordynacja podatkowa. Dowody w postępowaniu podatkowym*, edited by R. Dowgier, Białystok, 2013, 212 and next.

⁵¹ Article 78 the Constitution of the Republic of Poland of April 2, 1997.

⁵² Szubiakowski M., Nowe dowody jako podstawa wzruszenia ostatecznej decyzji podatkowej, *Monitor Podatkowy*, No. 2, 2016, 26.

⁵³ Article 128 TOA.

⁵⁴ Judgment of the Voivodeship Administrative Court in Kielce Of March, 2011, I SA/Ke 164/11, Legalis No. 364146.

⁵⁵ Article 129 TOA.

⁵⁶ Drywa A., *Odpowiedzialność odszkodowawcza za wydanie niezgodnej z prawem decyzji podatkowej*, Warsaw, 2014, 110.

⁵⁷ Judgment of the Voivodeship Administrative Court in Cracow of April 28, 2015, I SA/Kr 171/15, Legalis No. 1261885.

files and to make notes, copies or duplicates of them.⁵⁸ Moreover, a party may request their authentication or issuance of certified copies from the case file.⁵⁹

Apart of the rules indicated directly in the provisions of the Tax Ordinance, the principles considered as auxiliary apply, being confirmed in the case law and literature.⁶⁰ This group also includes the principle of free evaluation of evidence⁶¹ which means that while considering the collected evidence, the tax authority is not bound by any formal criteria. The only framework of unrestricted evaluation is determined by the compliance with the law, the laws of logic, life experience and purposefulness of the evidence in the ongoing proceedings and impartiality of the authority.⁶²

It is also important to bear in mind the role played not so much by the regulations, but the activities of the administrative courts developing and unifying standards of evidence in tax cases. These functions become apparent during the practical application of the law, with the line of jurisprudence evolving simultaneously within specific categories of evidence.⁶³

An example of standards (models) of evidence confirmed by administrative courts is that directness principle does not apply in tax proceedings. The Tax Ordinance does not specify whether the tax authority is obliged to interview a witness each time. The Supreme Administrative Court decided that if a witness has already given testimony in criminal proceedings, it can be used. The Court confirms that in this case there is no violation of the active participation principle of the parties in tax proceedings.⁶⁴ Another example is the inclusion of private opinions prepared at the taxpayer's request during or beyond the proceedings. The Tax Ordinance establishes the principle of open catalogue of evidence: it can be anything not being contrary to the law. Submitting such evidence in tax proceedings with an appropriate application obliges the tax authority to consider it and evaluate it, if the evidence is admitted.⁶⁵

⁵⁸ Article 178 (1) TOA.

⁵⁹ Article 178 (3) TOA.

⁶⁰ Służewski J., *Postępowanie administracyjne*, Warsaw, 1982, 44.

⁶¹ Article 191 TOA.

⁶² Judgment of the Supreme Administrative Court of October 8, 2010, I FSK 1674/09, *Legalis* No. 338332; judgment of the Supreme Administrative Court of September 20, 2005, FSK 2127/04, *Legalis* No. 80610; judgment of the Supreme Administrative Court of June 29, 2000, I SA/Po 1342/99, *Legalis* No 52617; judgment of the Voivodeship Administrative Court in Lublin of January 14, 2009, I SA/Lu 399/08, *Legalis* No 367704.

⁶³ Strzelec D., *Zasady postępowania dowodowego-uwagi o stosowaniu prawa przyczynkiem do dyskusji nad kształtem przyszłych regulacji prawnych*, *Przegląd Podatkowy*, 2014, No 4, 12.

⁶⁴ Judgment of the Supreme Administrative Court of June 7, 2019, I FSK 785/17, *LEX* No. 2698753.

⁶⁵ Judgment of the Supreme Administrative Court of June 3, 2022, I GSK 2748/18, *LEX* No. 3368923.

Judgments of administrative courts develop models of conduct for example presenting evidence. However, it should be remembered that judgments are issued individually. There is no common law in Poland.

IV. Conclusion

The primary task of the authority during tax proceedings is to thoroughly clarify and resolve the tax case in question above all. For this purpose, evidence is used which differs in essence and characteristics. Besides, although the statutory catalogue is exemplary, it has only one goal. Namely, it constitutes the basis the facts can rely on. The reasons for the initiation of tax proceedings and their duration must be justified and supported by solid evidence.

Tax regulations say that the authorities cannot conduct evidence-gathering activities if they are not prescribed by the law. Any procedural activity must be reflected in the principle of acting on the basis and within the limits of the law. Thus, it should be emphasized that according to the Latin *paremma argumenta non numeranda, sed ponderanda sunt*, evidence should not be counted but weighed. The most important thing is the value of the evidence gathered in the case, with a certain amount of evidence not included in it.

In conclusion, it should also be noted that the use of evidence in tax proceedings requires awareness of the basic concepts and legally valid procedural steps taken in its framework. Having a knowledge of the issues of evidence and general principles of tax proceedings is a kind of procedural guarantee for the protection of taxpayers' rights. Therefore, it is expected that taxpayers should be informed in more detail on the rights and obligations associated with tax proceedings. In many cases, taxpayers are unaware of their rights or feel weakness or fear before the tax authority's power and they adopt a passive attitude. Changing this state of affairs represents a challenge. The most important thing would be the simplification of tax law which is difficult to understand for taxpayers and causes many interpretation problems. Moreover, a taxpayer with a legal interest in tax proceedings should strive to establish the credibility of his actions and clarify the given actual situation. He cannot deprive himself of the right to formulate his claims. Therefore, the challenge is to increase the level of information for taxpayers about their rights. In many cases, taxpayers are not aware of their rights or feel feeble and afraid of the tax authorities.

The conclusion should also emphasize the challenges concerning tax evidence proceedings on the creation of comprehensive conditions for protecting taxpayers' interests. An important shaping element is the awareness of exhaustion of all available methods of proof, both by the tax administration authority and the taxpayer himself. It is worth calling for the issue of evidence and tax evidence proceedings to be treated in a factual and fair manner concerning other tax law regulations.

References

- Brzeziński B., Masternak M., O tak zwanym ciężarze dowodu w postępowaniu podatkowym, *Przeгляд Podatkowy*, No. 5, 2004.
- Dąbrowski A., Postępowanie dowodowe, in: *Postępowanie w sprawach podatkowych. Komentarz praktyczny*, edited by D. Malinowski, Warsaw, 2004.
- Dąbrowski A., Zasady ogólne postępowania, in: *Postępowanie w sprawach podatkowych. Komentarz praktyczny*, edited by D. Malinowski, Warsaw, 2004.
- Dowody, in: *Encyklopedia Popularna PWN*, Warsaw, 1999.
- Drywa A., Odpowiedzialność odszkodowawcza za wydanie niezgodnej z prawem decyzji podatkowej, Warsaw, 2014.
- Hanusz A., Podstawa faktyczna rozstrzygnięcia podatkowego, Cracow, 2006.
- Kędziora R., Ogólne postępowanie administracyjne, Warsaw, 2008, 192.
- Olech M., Ciężar dowodu w postępowaniu podatkowym, in: *Ordynacja podatkowa w teorii i praktyce*, edited by B. Kucia-Guściora, M. Münnich, L. Bielecki and A. Krukowski, Lublin, 2008.
- Nowak I., Czynny udział podatnika w podatkowym postępowaniu odwoławczym, *Studia Prawno-Ekonomiczne*, No. 79, 2009.
- Nowak I., Uznanie okoliczności faktycznych za udowodnione w świetle czynnego udziału podatnika w procedurze podatkowej, *Prawo Budżetowe Państwa i Samorządu*, 2019.
- Masternak M., Zasada ogólna pisemności w postępowaniu podatkowym, *Kwartalnik Prawa Podatkowego*, No. 3, 2022.
- Rutkowski B., *Dowody w postępowaniu podatkowym*, Warsaw, 1999, 60.
- Patyk J., *Zasady procedury podatkowej w Polsce*, <<https://shorturl.at/cvPSV>> [04.04.2023].
- Presnarowicz S., *Postępowanie podatkowe w systemie polskiego prawa podatkowego*, Warsaw, 2003.
- Służewski J., *Postępowanie administracyjne*, Warsaw, 1982.
- Staniszewski M., *Postępowanie podatkowe. Kontrola podatkowa*, Warsaw, 2011.
- Strzelec D., *Dowody w postępowaniu podatkowym*, Warsaw, 2013.
- Strzelec D., Zasady postępowania dowodowego-uwagi o stosowaniu prawa przyczynkiem do dyskusji nad kształtem przyszłych regulacji prawnych, *Przeгляд Podatkowy*, No. 4, 2014.
- Szubiakowski M., Nowe dowody jako podstawa wzruszenia ostatecznej decyzji podatkowej, *Monitor Podatkowy*, No. 2, 2016.
- Szumlakowski R., Zasady prawne postępowania podatkowego organu administracji podatkowej w relacjach z podatnikiem, in: *Prace Naukowe Wydziału Prawa, Administracji i Ekonomii*

Uniwersytetu Wrocławskiego, edited by P. Borszowski, A. Huchla, E. Rutkowska-Tomaszewska, Wrocław, 2011.

Teszner K., Czynności dowodowe w podatkowym postępowaniu odwoławczym, in: Ordynacja podatkowa. Dowody w postępowaniu podatkowym, edited by R. Dowgier, Białystok, 2013.

Walkowski G. K., System polskiego prawa podatkowego w praktyce: wybrane zagadnienia. Tom I, Podstawowe procedury podatkowe, Bydgoszcz, 2012.

Legal Sources

Constitution of the Republic of Poland of April 2, 1997.

Tax Ordinance Act of August 29, 1997.

Case Law

Judgment of the Supreme Administrative Court of June 4, 1982, I SA 258/82, Legalis No. 34718.

Judgment of the Supreme Administrative Court of January 13, 2000, I SA/Ka 960/98, Legalis No. 51025.

Judgment of the Supreme Administrative Court of June 29, 2000, I SA/Po 1342/99, Legalis No. 52617.

Judgment of the Supreme Administrative Court of September 20, 2005, FSK 2127/04, Legalis No. 80610.

Judgment of the Supreme Administrative Court of April 24, 2007, I FSK 582/06, LEX No. 467334,

Judgment of the Supreme Administrative Court of February 6, 2008, II FSK 1671/06, Legalis No. 111518.

Judgment of the Supreme Administrative Court of May 28, 2008, II FSK 491/07, Legalis No. 119067.

Judgment of the Supreme Administrative Court of October 8, 2010, I FSK 1674/09, Legalis No. 338332.

Judgment of the Supreme Administrative Court of September 29, 2011, I FSK 1476/10, Legalis No. 379161.

Judgment of the Supreme Administrative Court of October 21, 2011, I FSK 1649/10, LEX No. 1069308.

Judgment of the Supreme Administrative Court of January 13, 2012, I FSK 1106/11, Legalis No. 418271.

Judgment of the Supreme Administrative Court of January 18, 2012, I FSK 343/11, Legalis No. 448370.

Judgment of the Supreme Administrative Court of April 11, 2012, II FSK 1921/10, LEX No. 1137624.

Judgment of the Supreme Administrative Court of June 12, 2012, I FSK 1090/11, Legalis No. 778933.

Judgment of the Supreme Administrative Court of December 6, 2012, II FSK 182/11, Legalis No. 817229.

Judgment of the Supreme Administrative Court of January 11, 2013, II FSK 1470/11, Legalis No. 594205.

- Judgment of the Supreme Administrative Court of April 15, 2015, I GSK 648/13, Legalis No. 1311044.
- Judgment of the Supreme Administrative Court of June 12, 2015, II FSK 1262/13, Legalis No. 1311924.
- Judgment of the Supreme Administrative Court of October 11, 2017, II FSK 1317/17, LEX No. 2400782.
- Judgment of the Supreme Administrative Court of June 7, 2019, I FSK 785/17, LEX No. 2698753.
- Judgment of the Supreme Administrative Court of February 4, 2020, II FSK 635/18, LEX No. 3059106.
- Judgment of the Supreme Administrative Court of June 3, 2022, I GSK 2748/18, LEX No. 3368923.
- Judgment of the Voivodeship Administrative Court in Białymstok of May 18, 2005, I SA/Bk 47/05, Legalis No. 158155.
- Judgment of the Voivodeship Administrative Court in Warsaw of October 2, 2006, III SA/Wa 1352/06, Legalis No. 83194.
- Judgment of the Voivodeship Administrative Court in Lublin of January 14, 2009, I SA/Lu 399/08, Legalis No. 367704.
- Judgment of the Voivodeship Administrative Court in Łódź of April 16, 2010, I SA/Łd 1032/09, Legalis No. 352726.
- Judgment of the Voivodeship Administrative Court in Olsztyn of August 26, 2010, I SA/Ol 443/10, Legalis No. 440959.
- Judgment of the Voivodeship Administrative Court in Kielce Of March, 2011, I SA/Ke 164/11, Legalis No. 364146
- Judgment of the Voivodeship Administrative Court in Bydgoszcz of July 23, 2013, I SA/Bd 309/13, Legalis No. 765630.
- Judgment of the Voivodeship Administrative Court in Lublin of February 4, 2015, I SA/Lu 978/14, Legalis No. 1198028.
- Judgment of the Voivodeship Administrative Court in Olsztyn of April 14, 2015, I SA/Ol 120/15, Legalis No. 1272428.
- Judgment of the Voivodeship Administrative Court in Cracow of April 28, 2015, I SA/Kr 171/15, Legalis No. 1261885.
- Judgment of the Voivodeship Administrative Court in Cracow of May 14, 2015, I SA/Kr 502/15, LEX No. 1756813.
- Judgment of the Voivodeship Administrative Court in Szczecin of April 11, 2018, I SA/Sz 93/18, LEX No. 2482402.
- Judgment of the Voivodeship Administrative Court in Cracow of June 13, 2019, I SA/Kr 136/19, LEX No. 2697656.
- Judgment of the Voivodeship Administrative Court in Bydgoszcz of January 15, 2020, II SA/Bd 769/19, LEX No. 2775922.
- Judgment of the Voivodeship Administrative Court in Cracow of March 24, 2021, I SA/Kr 9/21, LEX No. 3190574.
- Judgment of the Voivodeship Administrative Court in Gliwice of March 18, 2022, II SA/Gl 1194/21, LEX No. 3337962.
- Judgment of the Voivodeship Administrative Court in Poznań of November 18, 2022, I SA/Po 111/22, LEX No. 3480303.