Analyses and Studies
Analizy i Studia

CASP
Centre for Analyses and Studies of Taxation
Centrum Analiz i Studiów Podatkowych

No. 2(20) | December 2025 pp. 51–62 ISSN 2451-0475

Limitation of Tax Liability in Restructuring Proceedings

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The aim of the article is to analyze the issue of limitation of tax liabilities in restructuring. The publication elaborates on the impact of the commencement of proceedings as well as the final approval of the arrangement and its possible amendment or repeal on the possibility of enforcing a tax liability, its chargeability, and limitation period.

The following conclusions have been drawn from the analysis:

1) A tax claim that prescribed before the date of opening of the restructuring proceedings is expired so it is not covered by the arrangement;

2) In principle, the limitation period for tax claims does not start during the restructuring proceedings and if it already has, it is suspended;

3) The final approval of an arrangement leads to a change in the contractual relations binding the debtor (including tax relations);

4) If an arrangement is repealed, the limitation period commences when the decision becomes final.

Keywords: Restructuring, arrangement, statute of limitations, taxes
JEL Classification: K34

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Introduction

Restructuring of tax liabilities through restructuring proceedings raises a lot of controversy. Restructuring proceedings influences the possibility of enforcing a tax liability and an arrangement adopted in such proceedings modifies the liability. Apart from the effects of an approved arrangement, the consequences of a possible repeal of the arrangement are also important. Therefore, questions arise as to the chargeability and limitation of the tax liabilities covered by an arrangement in such proceedings.

The above-mentioned theoretical problems have a direct impact on the practice followed within the framework of restructuring proceedings, especially as regards decisions of the tax authority as to voting on the arrangement, carrying out of the arrangement by the debtor as well as drawing up of a list of claims by the supervisor or administrator.

There are various solutions to these problems presented by both the representatives of the doctrine and the practice. It seems that the discrepancies in interpretation of the regulations are the

greatest between the people dealing with restructuring proceedings on a daily basis and the tax authorities. Therefore, although the issues raised in this study have already been discussed multiple times in the literature, they are still relevant and require further in-depth examination.

Tax debt relief versus the arrangement

If the taxpayer is unable to pay off their tax liability, they can benefit from one of the reliefs regulated in Articles 67a-67e of the Act of 29 August 1997 on the Tax Ordinance (the Sejm of the Republic of Poland, 1997).[1] According to Article 67a of the TO, the relief may consist in: 1) deferral of payment of tax and payment of arrears; 2) making tax and tax arrears payable in installments; 3) cancellation of tax arrears and the extension fee.[2] However, the relief is only granted in cases justified by an important interest of the taxpayer or the public interest (Article 67a in principio).[3] The case law emphasizes that it is highly exceptional (see the judgement of the RAC in Kielce, 2013) and that even if the statutory conditions are met, the tax authority may grant the relief but it is not obliged to do so (see the judgement of the SAC, 2001; the judgement of the SAC, 2013).

Besides tax liabilities, problems with settlement of debt by the debtors are usually also concerned with other categories of liabilities. In such cases, an alternative to setting individual conditions for the repayment of liabilities with the creditors is for the debtor[4] to use one of the four restructuring procedures[5] that allow for the restructuring of their liabilities under an arrangement with the creditors. Pursuant to Article 156(1) of the RL, restructuring of the debtor's liabilities includes, among other things: 1) deferral of payments; 2) making them payable in installments; 3) reduction of their amount.

The reliefs stipulated in Article 67a of the TO are, therefore, included in the catalogue of measures allowing for restructuring liabilities under an arrangement, however, the conditions for initiating restructuring are relatively easier to meet than in the case of applying for a relief.[6] In addition, the arrangement is adopted by way of voting of the majority as specified in Article 119 of the RL, which makes restructuring of tax liabilities possible, even if the tax authority is against the arrangement.

For these reasons, restructuring of tax liabilities may be more convenient for the debtor, if carried out under an arrangement rather than through tax reliefs. It should be stressed that if the debtor meets the statutory conditions, they have a right (but not an obligation) to enter into the restructuring proceedings and there are no grounds for treating them in any way worse than a debtor who has decided to apply for relief provided for in Article 67a of the TO.

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[1] Hereinafter also referred to as the TO.

[2] The provisions of the Tax Ordinance regulate comprehensively granting reliefs in the repayment of tax liabilities (Etel, 2022, Commentary to Article 67a[1]).

[3] Understanding of the concepts of 'important taxpayer's interest' and 'public interest' has been covered by many decisions of the Administrative Courts (see judgement of the SAC, 2003; judgement of the RAC in Wrocław, 2023; judgement of the RAC in Szczecin, 1999).

[4] The debtor must have restructuring capacity as specified in Article 4 of the Act of 15 May 2015 on Restructuring Law (the Sejm of the Republic of Poland, 2015; hereinafter also referred to as the RL). Among others, entrepreneurs specified in Article 43[1] of the Act of 23 April 1964 on the Civil Code (the Sejm of the Republic of Poland, 1964; hereinafter also referred to as the CC) possess such restructuring capacity.

[5] In accordance with Article 2 of the RL, restructuring is carried out through the Arrangement Approval Procedure (hereinafter referred to as the AAP), Expedited Arrangement Procedure (hereinafter referred to as the EAP), Arrangement Procedure (hereinafter referred to as the AP), and the Recovery Procedure (hereinafter referred to as the RP).

[6] Pursuant to Article 6(1) of the RL, the restructuring proceedings may be conducted with respect to an insolvent debtor or one posing a threat of insolvency. The proceedings cannot infringe on any legitimate interests of the creditors (Article 3[1] in fine, of the RL), however, it is not required to make any additional indications similar to the concept of 'important taxpayer's interests.'

Coverage by a tax liability arrangement

The arrangement concluded within the framework of restructuring proceedings is essentially general in character: It covers all the debtor's claims, regardless of their nature (Adamus, 2019, Commentary to Article 150, N.B. pp, 12–13).[7] Division of the claims into the ones covered and not covered by the arrangement is principally based on the moment they have emerged[8] in relation to the date of opening of the restructuring proceedings.[9] Therefore, it is often the case that tax claims[10] arising before the commencement of the restructuring proceedings become chargeable following the initiation of the proceedings (after the arrangement day); the moment when the claim has arisen will be decisive here (Lubicz-Posochowska, 2016, p. 191).

From the point of view of tax claims, one exception to the above rule is currently relevant. Pursuant to Article 77(1) of the RL, claims for the settlement period during which restructuring proceedings were initiated, including tax claims, are by virtue of the law proportionally divided into the part that is treated as claims which arose before the opening of the proceedings and the part treated as claims which arose after the opening of the proceedings. Application of this regulation gives rise to many problems in practice (Stanisławiszyn, 2022, pp. 61–66).

The latest amendment to the Restructuring Law[11] repealed the second exception concerning claims secured by the debtor's property. Pursuant to Article 151(2) of the RL, the arrangement did not cover a claim secured by the debtor's property by way of a mortgage, pledge, registered pledge, tax lien, or ship's mortgage in part covered by the value of the collateral, unless the creditor agreed that it be included in the arrangement.

Moreover, it is prohibited to satisfy claims that by virtue of the law are covered by the arrangement (Article 252[1] of the RL).[12] It prevents crediting claims that are satisfied on a regular basis (and they are not covered by an arrangement) towards the claims covered by the arrangement.

Regulation of limitation of tax liability

Pursuant to Art. 70(1,1a) of the TO, the limitation period for tax liabilities is 5 years, which is counted from the moments specified in the Act (e.g. from the end of the calendar year in which the tax payment deadline expired).[13] The following paragraphs mention situations when the limitation period does not start and if it already has, it becomes suspended (see Articles 70[2] and 70[6] of the TO), and when the limitation period is interrupted (Articles 70[3] and 70[4] of the TO).

The provisions on limitation cover all tax claims: the way they are incurred does not matter and the effect of limitation is expiration of the claim along with the interest (Mariański, 2023, Commentary to Article 70, N.B. 1). Such a solution is intended to maintain the stability of the budget and of social

[7] A partial arrangement regulated in Articles 180-188 of the RL is an exception to this rule.

[8] This paper leaves out the issue of determining the moment of incurring different tax liabilities.

[9] In accordance with Article 150(1)(1) of the RL, the arrangement includes personal claims which arose before the initiation of the restructuring proceedings, unless the Act of law provides otherwise. This regulation applies to EAP, AP, and RP. In the case of the AAP, the arrangement, as a rule, includes claims incurred prior to the arrangement date set by the debtor.

[10] In restructuring law, the legislator consistently uses the term 'claim' and thus tax liabilities will also be referred to here interchangeably as tax claims (Adamus, 2022, pp. 11-–2).

[11] The Act of 25 July 2025 Amending the Acts on the Restructuring Law, the Bankruptcy Law, and the National Register of Debtors (the Sejm of the Republic of Poland, 2025), which entered into force on 23 August 2025.

[12] This prohibition is not applicable only in the case of AAP.

[13] Article 70 of the TO regulates the general limitation mechanism and additional specific regulations in this respect are contained in Articles 70a and 70e of the TO.

relations (see judgement of the Constitutional Tribunal, 2012).

It is worth noting that Articles 70(3) and 70(3a) of the TO directly regulate the consequences of declaring a debtor's (or taxpayer's) bankruptcy on the continuation of the limitation period. Pursuant to Article 70(3) of the TO, declaration of bankruptcy interrupts the limitation period. In accordance with Article 239a(1) of the Act of 28 February 2003 on Bankruptcy Law (the Sejm of the Republic of Poland, 2003),[14] reporting claims in bankruptcy proceedings (pursuant to Article 236 et seq. of the BL) interrupts the limitation period. It should be assumed that the limitation period is interrupted already at the moment when bankruptcy is declared (Gurgul, 2020, Commentary to Article 239, N.B. 1).[15]

The situation is different in restructuring proceedings. The legislator has not decided to solve the problem of limitation by way of a general regulation that would be adjusted to the specificity of these proceedings. Article 259(4) of the RL and the corresponding Article 312(6) of the RL[16] were only added in 2020; they are concerned with limitation but this regulation is only partial in character.

Covering prescribed tax claims with an arrangement

First of all, the situation where the tax claim has already prescribed at the moment of commencement of the restructuring proceedings (on the arrangement date) should be subjected to analysis. The provisions governing the process of drawing up of a list of claims do not determine whether prescribed claims should also be included in the list or not. In view of the literal interpretation of Article 76(1) of the RL, which states that the list of claims includes personal claims against the debtor incurred before the date of the commencement of the restructuring proceedings, it seems that the list should include all claims, regardless of whether they are prescribed or not. However, such a conclusion appears to be incorrect from the perspective of the purpose of the restructuring proceedings,[17] which in essence is intended to maximize satisfaction of the creditors.[18] Protection of the interests of the creditors includes safeguarding their interests in the restructuring proceedings from the point of view of efficient use of an entrepreneur's resources to satisfy their claims. Restructuring proceedings should not serve to counteract the effects of limitation, which occurred before the commencement of the proceedings (and setting the arrangement date). For this reason, it should be assumed that the supervisor (or administrator) may not decide whether to include a prescribed claim in the list of claims or not at their own discretion; the creditor is not entitled to protection in this respect (Adamus, 2022, p. 12).[19]

[14] Hereinafter also referred to as the BL.

[15] S. Gurgul points out that Articles 70(3) and 70(3a) of the TO contain a special kind of regulation which has priority over the provisions of Article 239 of the BL.

[16] These provisions were added with the Act of 30 August 2019 Amending the Act on Bankruptcy Law and Certain Other Acts (the Sejm of the Republic of Poland, 2020) which entered into force on 24 March 2020.

[17] According to Article 3(1) of the RL, this purpose is to avoid bankruptcy of the debtor by enabling them to undergo restructuring by way of concluding an arrangement with the creditors; in the case of recovery proceedings, the aim is also to carry out remedial actions while simultaneously safeguarding the legitimate rights of the creditors.

[18] However, the purpose of restructuring through an arrangement, which is indented to avoid bankruptcy of the debtor, is not disconnected from the purpose of bankruptcy proceedings. Both are group proceedings and focus on making the most efficient use of the debtor's enterprise for the benefit of their creditors. Therefore, the provisions of the Restructuring Law cannot be interpreted in isolation from the provisions of the Bankruptcy Law. The aim of the restructuring proceedings should also be pursued while striving for the utmost satisfaction of the creditors; otherwise, the objectives of both of the proceedings would need to be considered contradictory.

[19] R. Adamus points out that under exceptional circumstances, it is admissible that the debtor submits a statement that they wish to satisfy a prescribed claim, for example, by way of dropping the claim of limitation pursuant to Article 117(2) of the CC (Adamus, 2019, Commentary to Article 76, N.B. 2).

The above considerations are of great importance, especially as regards claims based on private law, which do not expire after the period of limitation but become transformed into the so-called natural obligation.[20] The case is different with tax claims, which – pursuant to Article 59 of the TO – are extinguished by virtue of the law following termination of the limitation period. Due to prescription of a claim, the liability ceases to exist (Etel, 2022, Commentary to Article 70[1]; Janas, 2019, pp. 31–32). In contrast to the natural claim, payment of a prescribed tax claim is treated as an overpayment and it is subject to repayment (Article 72 of the TO) (Mariański, 2023, Commentary to Article 70, N.B. 1).

In view of the above, it should be assumed that tax claims that have prescribed before the commencement of the proceedings (and before setting the arrangement date) should be considered expired claims and so they are not covered by the arrangement. Therefore, when the supervisor (or administrator) is drawing up a list of claims, they should pay a particular attention to examination of limitation, including limitation of tax claims.

Limitation of tax liability in the course of restructuring proceedings

At the time when the RL entered into force on 1 January 2016, the Act did not contain any specific provisions regarding limitation of claims. The safest measure for the creditor to interrupt the limitation period concerning the debtor subjected to restructuring was deemed to be taking them to court or summoning them to a consensual settlement (through restructuring proceedings). However, as A. Jakubecki rightly pointed out, such actions are impossible in a situation where the creditor already has the writ of execution (Hrycaj, Jakubecki, Witosz, 2020, p. 372). Due to the fact that the link between limitation of claims covered by an arrangement and their potential restructuring under the arrangement is one of the key problems in restructuring proceedings, the doctrine has formulated various theories concerning interruption of the limitation period.[21] The problem was resolved by the legislator.

The provisions governing limitation in restructuring proceedings, which entered into force on 24 March 2020,[22] indicate that, in respect of claims for which it is inadmissible to initiate enforcement proceedings and to enforce a decision to secure a claim, the limitation period does not begin with the commencement of the restructuring proceedings and, if it has already started, it is suspended for the duration of the proceedings. Article 259(4) of the RL and Article 312(6) of the RL are twin provisions and apply to the EAP, AP (see Article 259[4] in conjunction with Article 278[3] of the RL), and RP (see Article 312[6] of the RL), but do not apply to the AAP.

The said regulation may be interpreted in two ways, depending on the scope of claims for which it is unacceptable to initiate enforcement proceedings and to execute a decision to secure a claim. It can be assumed that the provision only refers to claims for which enforcement proceedings could be initiated or a decision to secure the claim could be enforced, had the restructuring proceedings

[20] Such a liability does not cease to bind the parties, however, it becomes non-actionable, and, as a rule, its satisfaction is treated as the proper fulfilment of an obligation (Gutowski, 2021, Commentary to Article 117, N.B. 20).

[21] The following events were indicated as the ones that interrupt the limitation period: 1) the creditor's objection to putting their claim on the list of claims; 2) the creditor's application (although not provided for by the law but admissible) for adding their claim to the list of claims; 3) placement of a claim in the list of claims; 4) the debtor's attachment of a list of creditors to the application for restructuring; 5) the creditor's submission of an application for recovery proceedings (only as regards this creditor's claims) (Hrycaj et al., 2020, pp. 371–372 and the literature cited therein). It seems that not quite the placement of a creditor on a list of claims but also submission of a debtor's declaration of recognition or non-recognition of a claim could also be considered an act such as the ones above (see Article 86(5) of the RL).

[22] The provisions have not changed since they entered into force.

not been opened. Such an interpretation seems particularly justified by the fact that protection is only granted to the creditor who has previously taken independent action which resulted in obtaining the writ of execution or securing the claim. This view is strongly supported by A. Hrycaj.[23] It is also shared by K. Flaga-Gieruszyńska[24] and A. Jakubecki.[25] These are the only cases where the creditor cannot apply for execution and cannot interrupt the limitation period for the claim in that way.

A more extensive interpretation is also possible, which would make the provision applicable to all claims that might potentially be secured or subjected to enforcement proceedings (but this is unattainable due to the restructuring proceedings in progress). It appears that P. Zimmerman[26] and F. Zedler[27] support this position. Apart from purposive considerations, such a solution seems to be right due to procedural economy. Since restructuring proceedings are usually initiated by the debtor and they do so in order to come to an arrangement (i.e. to agree with the creditors as to the repayment of their claims), such an action should, thus, interrupt the limitation period. Forcing creditors to concurrently undertake individual debt collection activities would only generate needless costs. Moreover, it should be noted that if there have been no obstacles to placing an entire claim on the list of claims, Article 310 of the RL makes the applicant responsible for covering the costs of the RP, whereas in the case of EAP and AP, the lack of an analogous regulation leads to a situation where creditors can effectively open proceedings and increase their claim by the costs of the proceedings. A narrow understanding of the provisions in question also leads to a situation in which the limitation period has not yet been comprehensively reg-

[23] "*For obvious reasons, the above regulation only applies to the claims whose limitation period could be interrupted by applying for enforcement, that is, the claims covered by a writ of execution. These claims are the only ones where prohibition of enforcement deprives the creditor of the possibility of interrupting the limitation period. As far as claims not covered by a writ of execution are concerned, the prohibition of enforcement is meaningless, because interrupting the limitation period necessitates taking legal action first, which as an action taken before the Court or another body appointed to hear cases or before an Arbitration Court directly for the purpose of pursuing, establishing, satisfying or securing a claim...*" (Hrycaj, Filipiak, 2023, Commentary to Article 259[15]).

[24] "*The solution is intended to safeguard the interest of the creditors who are deprived of a means of satisfaction of their claims through state coercion during this transitional period; If, by the date of the commencement of the Arrangement Procedure, a claim covered by an arrangement has not been successfully secured, then such a decision cannot be enforced following the opening of the proceedings*" (Flaga-Gieruszyńska, 2021, p. 261, pp. 266–267).

[25] The provision applies to claims covered by an arrangement and in the case of RP to claims which are not covered by an arrangement (due to a broader scope of protection of the debtor's assets) (Hrycaj et al., 2020, p. 373).

[26] P. Zimmerman points out that the addition of Article 259(4) of the RL and Article 312(6) of the RL is "*proper supplementation of the statutory regulations due to the lack of a means of declaration of claims, which would interrupt the limitation period, within the framework of restructuring*" (Zimmerman, 2022, Commentary to Article 259, N.B. 12).

[27] Even prior to adding Article 259(4) of the RL and Article 312(6) of the RL, in the context of limitation of claims arising from social security contributions, F. Zedler pointed out that: "*however, purposive considerations require accepting that if claims arising from social security contributions have not been pursued through enforcement or secured against the debtor's assets covered by an arrangement prior to the commencement of the Expedited Arrangement Procedure, Arrangement Procedure or Recovery Procedure, the mere opening of these proceedings and the resultant prohibition of enforcement results in suspension of the limitation period for the duration of the said restructuring proceedings.* (...) *A different interpretation would unreasonably differentiate the impact of the commencement of the above-mentioned restructuring proceedings on the continuation of the limitation period concerning social security contributions, depending on whether or not the claims have been pursued via enforcement with respect to the assets of the debtor who participates in the restructuring proceedings or via securing the claims on the said debtor's assets prior to the opening of the restructuring proceedings, despite the fact that the mere opening of the restructuring proceedings creates a temporary obstacle to the possibility of satisfying them by way of enforcement in both cases all the same. Either an axiological or a praxeological justification for such an interpretation would be difficult to find*" (Zedler, 2017, pp. 606–607).

ulated as far as restructuring proceedings are concerned; as opposed to bankruptcy proceedings.

Commencement of the restructuring proceedings influences the administrative and enforcement proceedings in administration (Szczurowski, 2022, p. 445 et seq.). Bearing in mind the above considerations, it should be assumed out of cautiousness that in order for a tax claim to be covered by an arrangement, it is sufficient if it arises before the date of the opening of the restructuring proceedings,[28] however, it is not sufficient for Article 259(4) of the RL (or 312[6] of the RL) to be applicable.[29] As far as tax claims are concerned, there must be a possibility of carrying out enforcement, which is blocked by the ongoing restructuring proceedings (in accordance with the first viewpoint presented above).

As a rule, enforcement is carried out based on individual administrative acts (especially, decisions and orders but also resolutions, summons, and judgements) (Hauser, Wierzbowski, 2024, Commentary to Article 3, N.B. 4). Enforcement proceedings may be initiated: 1) at the request of the creditor; 2) ex officio; 3) as a result of transformation of preventive attachment into attachment by writ of execution (Hauser, Wierzbowski, 2024, Commentary to Article 26, N.B. 2). For this to happen, it is necessary to issue a writ of execution,[30] making it possible to open the enforcement proceedings. If it has not been issued before the commencement of the restructuring proceedings, the authority may issue it after the opening. It should be noted that application of Article 259(4) of the RL (or 312[6] of the RL) causes the limitation period not to start and if it already has, it is suspended for the duration of the restructuring proceedings, which eliminates the risk of prescription of claims during the proceedings that may take up to many years.

The situation is more complicated with the Arrangement Approval Procedure. In the classic Arrangement Approval Procedure,[31] the debtor is granted no protection against their creditors' debt collection activities so possible interruption of the limitation period should be assessed in accordance with the general provisions of the law (Hrycaj et al., 2020, p. 374). In this option, the AAP does not limit the creditors in terms of the possibility of pursuing their claims from the debtor in any form or shape. In turn, if the arrangement day has been announced in the AAP, Article 312(6) of the RL will apply (Frosztęga, 2022, p. 52).

A problematic situation arises when at the time of commencement of the restructuring proceedings (on the arrangement date which was set and then announced), enforcement proceedings had already been initiated or an order to secure a claim had been executed. Pursuant to Art. 70(4) of the TO, adoption of an enforcement measure, which the taxpayer has been informed of, interrupts the limitation period and after the interruption the limitation period continues starting from the day following the day when the enforcement measure was applied. Thus, theoretically, there is a risk of prescription of a tax claim in the course of the restructuring proceedings lasting multiple years. In the case of this type of claim, the argument of recognition of a claim cannot be raised due to the lack of regulation analogous to Article 123(1)(2) of the CC. R. Szaraniec proposed to use an analogy (Szaraniec, 2017, pp. 69–71) with Article 14(3) of the Act of 30 August 2002 on Restructuring of Certain Public-Law Claims from Entrepreneurs (the Sejm of the Republic of Poland, 2002), however, it seems that this analogy is too far-fetched. Solution can be found in the provisions of the Restructuring Law: based on the a fortiori argument, it can be assumed that since the mere possibility of carrying out enforcement or a decision to secure a claim results in suspension of the limitation period, it is all the more justified that the same effect will occur, if such measures have already been adopted and the restructuring procedure prevents temporarily their effective completion.

[28] Before the agreed arrangement date.

[29] In the EAP, AP, and RP.

[30] "*A writ of execution is a document confirming the existence and chargeability of a liability and containing other data necessary for properly carrying out administrative enforcement*" (Kijowski, 2020, p. 566).

[31] As regards the version of the AAP, which has been regulated by the Act on Restructuring Law since the Act entered into force.

Impact of the final approval of arrangement on tax claims

An arrangement can be defined as a mechanism that reshapes the relationships between the debtor and all their creditors who have been covered by the arrangement (Hrycaj et al., 2020, p. 493). The arrangement is assumed to have legal and substantive effects from the moment the decision on its approval becomes final (Hrycaj et al., 2020, p. 557; Trela, Królik, 2016, p. 70).[32] As noted by the Supreme Court (SC), the arrangement does not interfere with the existence of a claim itself but sets the limits for its enforceability or provides for other means of satisfying it (see judgement of the SC, 2013a; judgement of the SC, 2013b). Pursuant to Article 166(1) of the RL, the arrangement binds creditors whose claims are covered by it according to the Act (see Article 150 of the RL), even if they are not on the list of claims.

Therefore, the arrangement affects all the claims it covers. Despite clear regulations in this respect, in practice there are problems as to interpretation connected with the risk of prescription of claims, if there is a long repayment period[33] set out in the arrangement. In practice, such doubts arise among the tax authorities, which question the capacity of the arrangement to have substantive legal effects in the sphere of tax law. Consequently, this is often the basis for voting against the arrangement and challenging the decision to approve it. Interestingly, the problem that the tax authorities pay attention to is related to limitation of tax claims.[34]

As already mentioned, the provisions of the Tax Ordinance say nothing about the influence of the restructuring proceedings or the arrangement on limitation of tax claims. Currently, the provisions of the Restructuring Law only partially regulate limitation of claims covered by an arrangement (including tax claims) during the restructuring proceedings. Undoubtedly, the provisions of the Restructuring Law in this respect are lex specialis in relation to the provisions of the Tax Ordinance (see judgement of the SAC, 2005). Despite the lack of regulation directly relating to tax claims, conclusions regarding the impact of the arrangement on the continuation of their limitation period can be drawn from the general character of the arrangement.[35] It should be stressed that the effects of the arrangement are uniform in nature for all the claims it covers and their source is irrelevant.

Since limitation of tax claims in the course of restructuring proceedings raises no doubts, the only issue that still calls for clarification is the impact that a finally approved arrangement has on the claims.[36] It seems, therefore, that removal of the tax authorities' doubts is a question not of the impact of the arrangement on the limitation of tax claims, but of the effects the arrangement has on the chargeability of the claims covered by the arrangement.

In this respect, the Supreme Court provides the answer by stating that the arrangement sets new deadlines for the repayment of claims and it does

[32] As R. Adamus rightly points out: "*through the use of mandatory provisions, the restructuring law introduces its own rules of satisfaction of liabilities*" (Adamus, 2019, Commentary to Article 150, N.B. 11).

[33] The Act on the RL does not restrict the conditions for restructuring liabilities. If the arrangement has been supported by the creditors, as a rule the repayment period can be set freely. In practice, these are usually periods that do not exceed 10 years.

[34] For example, in one of the cases the applicant pointed out that the restructuring proceedings do not affect limitation of tax claims, and even if it were assumed that the arrangement is a form of recognition of a claim, the limitation period begins on the date of the final approval of the arrangement (see decision of the Regional Court [RC] in Katowice, 2018). In a different case, the applicant pointed out that the claims covered by the arrangement would have become prescribed before the repayment dates resulting from the arrangement (see decision of the RC in Warsaw, 2020).

[35] Considering that the Restructuring Law and the Tax Ordinance "*do not regulate the influence of the restructuring proceedings on the limitation period of tax liabilities, despite the lack of a clear intervention of the legislator in this regard, it cannot be implicitly deduced that making an arrangement has no legal effects in this respect*" (see decision of the RC in Katowice, 2018).

[36] The provisions of Article 259(4) of the RL and Article 312(6) of the RL are applicable until the end of the restructuring proceedings, which finish on the day when the decision on the approval of or refusal to approve the arrangement becomes final (Article 324[1] of the RL).

so for the benefit of the debtor, which means that chargeability is deferred (see judgement of the SC, 2006; Adamus, 2022, p. 17; Witosz, 2017, p. 62). It can be assumed that this the same as the creditor postponing the deadline for the repayment of a liability (Trela, Królik, 2016, p. 71).

Therefore, tax liabilities covered by an arrangement may not become prescribed earlier than before the expiry of the new payment deadlines resulting from the arrangement. This is a consequence of the fact that they are not chargeable yet and so the limitation period has not started.[37]

Change and repeal of an arrangement

An arrangement is made under certain economic circumstances and in the debtor's specific economic situation. Although one of the elements of the restructuring plan is forecast of profits and losses (see Article 10[1][8] of the RL), even the best forecasts may turn out to be inaccurate, especially when repayment under the arrangement is going to take many years. Therefore, it is possible to change the arrangement. Pursuant to Article 173(1) of the RL, if there has been sustainable increase or decrease in the income from an enterprise following approval of the arrangement, it is possible to request that it be changed.[38]

The changing procedure does not halt execution of the current arrangement and reapproval of the changed arrangement should be treated as a modification of the existing one (Hrycaj et al., 2020, p. 562). Therefore, there is no risk of prescription of tax claims here since the effects of a possible change in the arrangement will be analogous to the effects of the arrangement adopted in its original form.

However, repeal[39] and termination of the arrangement[40] raise doubts. In accordance with Article 179(1) of the RL, if an arrangement is repealed or terminated, the existing creditors may pursue their claims in the original amount and the amounts paid out on the basis of the arrangement are counted towards the claims. If repeal or termination of an arrangement restores the claim to its previous state before the approval of the arrangement, a question arises as to when the limitation period should begin or continue. Since Article 259(4) of the RL and Article 312(6) of the RL only regulate limitation during the restructuring proceedings, it could be assumed that the limitation period starts the moment they finish (and the arrangement is finally approved). However, considering the purpose of repeal of an arrangement, such a viewpoint cannot be upheld. Since the arrangement restores the original state of the creditors' claims (reduced by the payments already made), the creditors must have an actual possibility of taking action to satisfy them; otherwise, the effects of repeal of the arrangement would be illusory (Adamus, 2022, p. 16; Witosz, 2017, pp. 65–

[37] "*Thus, to recapitulate, by way of defining the manner of discharging of the debtor's liabilities covered therein, the agreement modifies the debtor's rights and obligations towards the creditors as regards their legal relationships in force and sets the maturity date for the claim anew and, thus, the beginning of the limitation period as well. For both public and private law claims, this period should start on the date of payment of a claim in accordance with the arrangement*" (see decision of the RC in Katowice, 2018). "*There is a firm view in the doctrine and the case law that the arrangement approved in the restructuring proceedings—no matter how long it takes to complete it—will not cause prescription of the claims it covers, including public-law claims (and, among others, tax claims)*" (see decision of the RC in Warsaw, 2020; Witosz, 2017, p. 63).

[38] In order to change the arrangement, there must be another voting (see Article 175 of the RL).

[39] The reasons for repealing an arrangement are listed in Article 176(1) of the RL: The court repeals an arrangement, if the debtor does not comply with its stipulations or it is obvious that the arrangement will fall through. It is presumed that it is obvious that an arrangement will fall through, if the debtor fails to discharge their liabilities arising after the arrangement has been approved.

[40] In accordance with Article 177(1) of the RL, declaration of the debtor's bankruptcy or rejection of an application for the declaration of bankruptcy under Article 13 of the BL in the course of executing the arrangement results in termination of the arrangement by virtue of the law as of the day the decision on declaring bankruptcy or rejecting the application for the declaration of bankruptcy becomes final.

66).[41] Therefore, it should, be assumed that the limitation period begins the moment the decision to repeal the arrangement becomes final.

Similarly, it should be assumed that if an arrangement is terminated, the limitation periods continues from the day when the debtor is declared bankrupt, while, at the same time, the aforementioned Article 70(3) of the TO will be applicable to tax claims. In the event of rejection of an application pursuant to Article 13 of the BL, limitation should be considered in view of the general principles of tax law.

Conclusion

The mutual interactions between restructuring law and tax law raise many doubts. These include issues related to the impact of the restructuring proceedings on the limitation of tax claims. The analysis that has been conducted leads to drawing the following conclusions:

a) If a tax claim has prescribed before the date of the commencement of the restructuring proceedings (and the set arrangement date), it has expired; in consequence, it is not covered by the arrangement and it is not included in the list of claims.
b) The limitation period of tax claims does not start in the course of the restructuring proceedings and if it already has, it is suspended (see Article 259[4] of the RL and Article 312(6) of the RL), provided that there has been a writ of execution issued with regard to the debtor (whereas if the writ of execution was not issued before the opening of the restructuring proceedings, the authority may do so afterwards). It should also be assumed that if the limitation period is interrupted before the opening of the restructuring proceedings (and the agreed arrangement date), Article 259(4) of the RL (or 312[6] of the RL) will also apply, which will prevent tax claims from prescribing during the proceedings.
d) Considering the fact that the final approval of an arrangement leads to alteration of the relationships between the debtor and the creditors and that the effects of the arrangement are uniform for all the claims under the arrangement, it should be assumed that the arrangement sets new maturity dates for tax claims. Therefore, tax liabilities cannot become prescribed earlier than before the expiry of the new payment deadlines resulting from the arrangement.
e) If an arrangement is repealed, the limitation period begins when the repeal decision becomes final (as the creditors must have an actual possibility of pursuing their claims). The same conclusion should also be drawn in the event of termination of the arrangement.

[41] Although in the event of the repeal of the arrangement, "*the claims covered by it resume their original state, it cannot be assumed that this also means that the limitation period will be fully restored. It cannot be assumed that the claims covered by the arrangement will become prescribed after it is repealed. If that were the case, a mechanism intended to protect the creditors would lead to the restriction of their rights, which is unacceptable*" (see decision of the RC in Katowice, 2018).

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Received: 26 September 2025
Accepted: 10 October 2025
Published: 30 December 2025

CASP
Centre for Analyses and Studies of Taxation
Centrum Analiz i Studiów Podatkowych

· **PUBLISHER** ·
Centre for Analyses and Studies of Taxation SGH · Al. Niepodległości 162 · Warsaw 02-554 · Poland
Dominik J. Gajewski (General Editor) · **Adam Olczyk (Managing Editor)**

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