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New Tax Code – outlined assessment by a practitioner

Alicja Sarna
Tax advisor specializing in general tax law

This article deals with the evaluation of some of the new and significantly modified concepts included in the Tax Code bill. The proposed bill introduces a number of previously non-existent regulations (e.g. non-executive forms of settlement) into the general tax law, it codifies the general principles of the tax law, and substantially modifies some of the existing regulations (e.g. statutes of limitation, correction of declarations). The purpose of the publication is to clarify these regulations and to indicate possible changes, which the author finds essential, to the proposed legislation.

Keywords: tax code, tax ordinance

1. Introduction

The subject matter of the article is an attempt at a preliminary assessment of the Tax Code bill of 6 October 2017 [hereinafter: the Bill][1] presented by General Tax Law Codification Committee [hereinafter: the Committee] from the point of view of a practitioner applying the general tax law in the professional work on an everyday basis. This assessment will be performed in relation to two groups of provisions: some new concepts introduced in the Bill and some significant modifications to the current regulations. It should be mentioned, however, that the bill also includes provisions transferred from the current Tax Code, which have remained unchanged, although in my opinion should be amended.

The Tax Code, which plays the role of the general part of the tax law, i.e. a regulation containing provisions common to all types of taxes, should be – by its nature – universal enough so that its provisions require only minor adjustments during the term of their effectiveness. Obviously, it would be a utopia to assume that it is possible to propose statutory solutions that will not be amended at all for a long time, because the economic reality surrounding us keeps changing at a pace that the law must keep up with. These changes seem to be one of the reasons for the need to replace the current law with a new one. The Tax Code adopted 20 years ago has already been amended more than 100 times, and the degree of interference of legislative changes in the

[1] The bill is available on the website of the Ministry of Finance at http://www.mf.gov.pl/ministerstwo-finansow/dzialalnosc/ciala-kolegialne/komisja-kodyfikacyjna-ogolnego-prawa-podatkowego/prace-komisji [status as at 14 November 2017].

original text has made the entire regulation difficult to read.

This does not mean, however, that the bill contains only new regulations. On the contrary, a large part of the existing regulations have found their place in it. The issue of identifying taxpayers and tax remitters – currently regulated in a separate act – has also been included in the Bill. It should be admitted at the same time that the systematics of the new Tax Code is more transparent and legible than in the effective one[2].

The committee was established pursuant to the Regulation of the Council of Ministers of 21 October 2014 on the establishment, organization and operation of the general tax law codification committee. The premise for the work of the Committee was to prepare a new legal act, which was to be built in such a way as to balance the interests of taxpayers and the tax authorities, i.e. on the one hand guarantee the protection of taxpayers' rights and increase their sense of security, and on the other hand ensure effective collection of due taxes.

As indicated in the justification of the Bill, the first of these objectives is to be achieved by alleviating the excessive rigorism of the Tax Ordinance with regard to taxpayers and introducing new legal mechanisms to strengthen and protect taxpayer in dealing with tax authorities[3], i.e. general principles of tax law, consensual forms of handling tax matters (tax agreements, mediation, consulting the tax consequences of transactions), the normative catalogue of the taxpayer's rights and obligations, regulations protecting the taxpayer in the event of compliance with information from tax authorities and well-established practice, the prohibition of issuing rulings to the detriment of the taxpayer in proceedings held before the authority of the first instance, or the right to correct returns before the end of tax proceedings, resigning from the appeal against the decision in favour of a complaint to the court, extending the time limits for the appeal against judgments, as well as official information about changes in tax law. In turn, the efficiency of collection is to be ensured by provisions introducing new types of tax proceedings (simplified proceedings, reference case, elimination of proceedings regarding trivial amounts of tax) or introduction of limitation of tax collection.

It seems that the analysis of the Bill leads to the conclusion that the basic premise of the new Tax Code was to depart from the current confrontational mode of action or confrontational mutual treatment of tax authorities and taxpayers. The new Tax Code seems to have been created as a responsive law, i.e. focused on the social needs articulated by the representation of society, and less on the needs of the authorities[4]. The law created at this stage of its development is characterized by increasing cooperation between the taxpayer and authorities, soft, non-confrontational methods of resolving conflicts, including e.g. mediation, and departure from the use of prescriptive measures in order to convince the taxpayer to perform certain actions. Correct application of all norms and concepts favourable to taxpayers will require the Minister of Finance and the Head of the National Revenue Administration to conduct extensive training of tax administration employees, during which they should obtain a clear message that the use of new solutions is desirable by the executives of the Ministry. Indeed, one can be afraid, observing the practice of many tax authorities, that without such a clear message, some of the concepts of the new Tax Code will remain on paper, as is currently the case, e.g. in the case of a tax hearing before a second instance au-

[2] What raises doubts is the location of Chapter 5, i.e. The right to information and support and the protection of legitimate expectations, which, in my opinion, should be close to the regulations regarding the advance tax rulings, especially taking into account the wording of Article 42 § 3 of the Bill, in which advance tax rulings are indeed considered to be one of the forms of providing information and support by tax authorities.

[3] Compare the substantiation of the Bill, p. 14.

[4] B. Brzeziński, *Relacje między administracją podatkową a podatnikami – od konfrontacji do współpracy* [*Relations between tax authorities and taxpayers – from confrontation to cooperation*], in: *Podatnik versus organ podatkowych, Studia podatkowoprawne*, Wrocław 2011

thority. It also seems necessary to conduct an educational campaign directed at taxpayers.

It should not be forgotten at the same time that the Bill also includes regulations that may in practice worsen the situation of taxpayers. An example of this is the issue of overpayment, and in fact the issue of the deprivation of the taxpayer of the right to recover it when the tax authorities prove that the taxpayer transferred the entire economic burden of the tax on the buyers – even if the tax was unlawfully collected.

2. New concepts in the Tax Code

General principles of the tax law

Codification of the general principles of the tax law – and therefore the main directives relating to both the operation of tax authorities and taxpayers – both as to the rules of conduct and the interpretation of provisions should be assessed positively. In the past, attempts were made to create similar regulations, though not of a statutory rank; this included the announcement of the Declaration of Taxpayers' Rights of 18 May 2011, which, however, regrettably have failed to have a great impact on the approach of tax authorities to taxpayers.[5] The currently proposed general principles duplicate to some extent the current general principles of tax proceedings, however, a few new rules – significant in my opinion – have been included in the Bill.

First of all, the Bill has introduced a directly regulated *in dubio pro tributario* principle with regard to doubts as to the facts of the case, and not only as to the issue of the interpretation of regulations as is the case at present. This rule – which constitutes an order to resolve doubts in favour of the taxpayer, can be considered in several aspects[6]. As regards the assessment of evidence and the evidentiary proceedings, this principle aims to:

- ordering the tax authorities to collect full evidence with the stipulation that the deficiencies thereof cannot be resolved to the detriment of the taxpayer, and
- prohibiting assessment of evidence to the detriment of the taxpayer unless there are grounds for it arising from other evidence, i.e. *a contrario*, the principle aims to ordering evidence to be assessed in favour of the taxpayer if there is evidence confirming the taxpayer's position.

This change should be assessed as favourable – it will dispel doubts as to the scope of application of the prohibition to resolve doubts to the detriment of the taxpayer.

The transfer of the principle under the administrative proceedings of balancing the legitimate interest of the obligated person and the public interest should also be approved of. In my opinion, this directive should be widely applicable not only in proceedings on the granting of rebates in repayments, but also in relation to evidentiary proceedings and when concluding tax agreements or in the course of mediation.

What does not seem apt to me is the introduction of the presumption of good faith of the obligated person into the Bill. This concept is currently associated with a specific issue i.e. the possibility of depriving the taxpayer of the right to deduct input tax where there has been an irregularity in the tax settlements of entities involved in the supply chain, and the taxpayer – despite acting with due diligence or in good faith could not know about the irregularities. This term is used on a much wider scale under the Tax Code, however, the identicality of the terms used may raise doubts in their application.

On the other hand, what deserves approval is the introduction of the principle of proportionality of tax authorities' operations, which may be of significant importance in evidentiary proceedings, allowing the taxpayer to provide evidence

[5] *Kwartał po ogłoszeniu. Deklaracja Praw Podatnika – i co dalej?* [*A quarter after the announcement. Declaration of Taxpayer's Rights – what next?*], "Prawo i Podatki" of 2011, No. 9.

[6] A. Mariański, *Nakaz rozstrzygania na korzyść podatnika – wykładnia prawa* [*An imperative to settle disputes in favour of the taxpayer – interpretation of the law*], "Monitor Podatkowy" of 2003, No. 5, p. 5 et seq.

relevant for the settlement, or, for example, the translation of only those parts of multi-page contracts that relate to matters relevant to the settlement of the case.

Prima facie what should also be fully approved is the prohibition of abuse of law by tax authorities. This term should be understood as a way of interpreting and applying the law which reduces the taxpayer's rights or increases taxpayer's obligations[7], thus, if we talk about abuse or a prohibition of abuse of law by tax authorities, it should not be referred to the prohibition of tax authorities using competences they are entitled to under the provisions of the law, but to the prohibition of such action of tax authorities which use these competences instrumentally only to aggravate the taxpayer's position. For instance, under the current Tax Code, one can indicate – as a typical example of abuse of law by tax authorities – their initiation of proceedings in cases of tax offenses just before the expiry of the limitation period of the tax liability which is performed solely to suspend the period. The practice met with disapproval of the Ombudsman who, by virtue of his motion of 22 October 2014, requested the Constitutional Tribunal to examine compliance of the provisions of the Tax Code, i.e. 70 § 6 Item 1 of the Act, allowing this type of activities of tax authorities to be performed with Article 2 of the Polish Constitution[8]. It can be seen that the clause prohibiting abuse of the law by tax authorities is to be a kind of response to the general clause of tax avoidance by taxpayers. In other words, the Bill introduces or attempts to introduce a kind of symmetry between tax authorities and taxpayers with regard to abuse of law.

It should be noted, however, that this prohibition was subject to the stipulation that the authorities do not abuse the law by acting contrary to the purpose of the law. The use of general clauses in legislation seems to be inevitable, sometimes even desirable. An example of this is the introduction of the GAAR to the Polish Tax Code, the purpose of which is to define the limits of legal tax optimization and to apply to operations of an artificial nature made primarily to achieve a tax advantage.

However, the introduction of detailed provisions of this clause on 15 July 2016 was different from the proposal to introduce a new general principle of tax law in the proposed wording. The provision, in this wording, although seemingly aimed at protecting the interest of taxpayers, must lead to the conclusion that the tax authorities, acting in accordance with the purpose of legal provisions, will not abuse the law *ex lege*. The proposal to introduce such a general principle should be regarded as allowing the classic *analogy of iuris* in the tax law, by referring to the purposes of legal provisions, or even the „spirit" of the legal system.

The indication of the „purpose of tax law provisions" as a general rule for the operation of tax authorities auditing these activities of administrative courts, as well as – last but not least – taxpayers, may raise a number of doubts as to the compliance of the proposed principle with constitutional norms.

It is also difficult to imagine that criminal courts would apply the provisions of the Fiscal Penal Code to actual facts in which it would be necessary to refer to the *analogy of iuris*, taking into account that, in principle, even the application of *analogy legis* in Polish fiscal penal proceedings is not permissible.

In this regard, in my opinion, the Bill should be amended by deleting the condition of the incompatibility of the abuse of law with the purpose of the law.

Right to information and support as well as protection of legitimate expectations

The introduction of the concept of the right to information and support as well as the protection of legitimate expectations seems *prima facie* to

[7] B. Brzeziński, *O zjawisku nadużycia prawa podatkowego przez administrację podatkową* [*On the phenomenon of abuse of tax law by the tax authorities*]. "Kwartalnik Prawa Podatkowego" of 2014, No. 1, pp. 11–12.

[8] The Committee took note of this problem by removing this condition of suspending the limitation period.

be advantageous for taxpayers. This regulation provides that the party concerned is entitled to be provided by the tax authorities with information on the rights and obligations arising from the provisions of the tax law applicable in their situation, as well as the right to support in the independent, correct and voluntary performance of these obligations and the exercise of rights. This information is to be provided both by phone and in writing, including by means of electronic communication. The Bill also provides for protection for the person concerned who will comply with the information provided to them by the tax authorities. In short, this protection is based on the obligation to pay only the amount of tax without default interest and both tax and penal tax penalties. However, it should be noted that the opportunity to take advantage of the protection depends on the fulfilment of two conditions, proving of which may in practice turn out to be extremely problematic. The first condition is the requirement that the tax authority providing the information should act on the basis of knowledge of all facts and circumstances regarding the situation of the person concerned relevant to the content of this information. The current practice of tax authorities shows that in many cases in analogous situations, i.e. where the applicant complies with their advance tax ruling of individual tax law provisions, tax authorities take steps to show that the facts described in the application for the advance tax ruling as so different from the facts of the case that this excludes the taxpayer from invoking the so-called principle of no detriment. The wording of the Bill indicated above, i.e. the requirement to act based on the knowledge of all relevant facts and circumstances, may give rise to similar actions of tax authorities in the future. Secondly, the protection of legitimate expectations will be possible when the tax authority providing information takes a substantive position on the scope and content of the rights and obligations of the person concerned. Again, by referring to the current practice of issuing individual advance tax rulings, it should be pointed out that these rulings are frequently issued in a conditional manner, i.e. indicating in the legal assessment of the applicant's position that their position is correct under certain conditions with no prejudging whether these conditions are met in the given circumstances. This leaves the taxpayer in a state of legal uncertainty. The wording used in the Bill may lead to analogous situations, i.e. to avoidance of provision of unequivocal answers by employees of tax authorities. To sum up, without denying the legitimacy of the right to information and the protection of legitimate expectations, it should be noted that this institution may in practice remain unused.

We also talk of the protection of legitimate expectations when the obliged person complied with the established practice of tax authorities as to the interpretation or application of the tax law effective as at the date of the performance of the truncation or the exercise of the right or obligation. Again, without denying the legitimacy of such a solution, it should be pointed out that this institution may also prove to be illusory due to the inability of the person concerned to prove the existence of this established practice of tax authorities. At this point one can ask oneself: what is the established practice of tax authorities regarding the interpretation or application of the tax law? Does the existence of one individual advance tax ruling different from the others make the practice „unestablished"? And how could anyone concerned demonstrate this practice? Should they archive their analyses of individual advance tax rulings issued on a given day, or should they update these analyses – and if so with what frequency – to verify whether the practice of tax authorities has remained or failed to remain "established"?

In addition, it should be noted that information and support also mean general and individual advance tax rulings, general information and tax explanations as well as other written explanations of the Minister of Finance, as well as hedging opinions. Leaving aside hedging opinions to be issued at the request of the person concerned where they want to confirm that the actions planned or carried out by them do not have the

features of tax avoidance, it should be stressed that the Bill does not contain provisions governing the interrelationships between different types of information and support. It is therefore unclear whether in relation to one and the same transaction the party concerned will be able to take advantage of asking the tax authority via electronic means about the tax consequences of their activities, and then of applying for individual advance tax ruling, and of requesting – after the transaction – the tax authority to verify the correctness of the settlement. There is also no regulation resolving the conflict of responses, i.e. a situation in which the party concerned will be given different responses regarding the same issue in each of the above-mentioned modes, and will be able to take advantage of different scopes of protection. Who should decide what scope of protection is appropriate for the person concerned: the person concerned or the tax authority?

Appeals – resignation from submission, change of time limits

Another valuable regulation contained in the Bill is the possibility for the person concerned to resign from an appeal against the decision. This option will apply if the taxpayer challenges the decision accusing the tax authority only of violating substantive law. In this case, instead of an appeal, the taxpayer will be able to lodge a complaint to the administrative court. This regulation should be assessed positively, however, one may fear that its use in practice, in which the dispute concerns a significant amount, will be limited. Usually, in such cases, the dispute with the tax authority concerns both the authority's violation of the provisions of the procedural and substantive tax law – most often we deal not with undisputed and unquestionable facts, but with a dispute regarding the failure to conduct proper evidentiary proceedings or incorrect assessment of evidence by tax authorities. As a consequence, in my opinion, this concept may be rarely used, but it will allow proceedings to be to accelerated, especially where the positions of tax authorities and administrative courts are divergent. It is worth pointing out that the taxpayer who will want to use this concept and will wrongly assess the nature of the allegations will be p[protected because a complaint containing e.g. allegations regarding the established facts will be heard as an appeal.

In my opinion, one of the most important changes in the Tax Code is the extension of the deadline for submitting an appeal to 30 days. This time limit in cases of complicated facts, extensive evidence, extensive legal argumentation seems to be sufficient to present the taxpayer's position and arguments against the decision in an exhaustive manner, thus ensuring protection of the taxpayer's rights.

Reference case – suspension of proceedings

Another positive, in my opinion, idea of the Committee is the possibility of suspending proceedings due to a reference case, i.e. one in which the actual facts or the existing legal problem is similar to the one to be resolved. This case may be pending before both the tax authority and the administrative court. The practice of tax authorities should, in my opinion, take the following route – after the end of this reference case, if the decision take in it is unfavourable for the obligated person, a time limit be set in cases which were previously suspended to comment on the collected evidence within which time the obligated person will be entitled to correct the tax return[9] – obviously unless they contest the decision. However, the Bill does not contain regulations regarding the date of commencement of the suspended proceedings if the suspension was due to a „reference case". In my opinion, similarly as in the case of a preliminary issue, the tax authority should commence proceedings on the day when the decision of the authority ending the proceedings in a reference case becomes final or the court ruling is served on the authority confirming its validity in that case.

[9] The tax authority will also be entitled to the adjustment within this period.

Collateral for the performance of a tax obligation

It should be noted with satisfaction that in the Bill the Committee regulated the tricky and problem-causing issue of the interdependence of the tax obligation collateral under the provisions of the Act on enforcement proceedings in administration and the collateral provided under the Tax Code. As it can be seen, the Committee granted primacy to voluntary collateral (i.e. based on the Tax Code), indicating that if the application for the acceptance of the collateral in one of the forms indicated in the Tax Code is submitted by the obligated person after the collateral has been provided under the enforcement act, the scope of the collateral stablished under the provisions on the enforcement proceedings shall be repealed or amended as regards the collateral accepted.

Other concepts

The Bill also provides for several other concepts whose introduction to the Tax Code should be assessed in positive terms.

One of them is tax cancellation. Currently, the tax authority can only cancel tax arrears, i.e. a tax not paid on time. Such a regulation causes discomfort to a taxpayer, who, in order to apply for a relief in repayment, must first be delayed with the payment of the tax liability, which of course results in the risk of having enforcement proceedings instigated against them. The Bill provides for the possibility of submitting an application for tax cancellation, i.e. submitting an application for a relief in repayment before the tax payment deadline expires.

Similarly, one should positively assess the possibility of correcting a return during the pending tax proceedings within the time limit set for reviewing the evidence gathered. As you can see, the Committee has decided to introduce in the „ordinary" tax proceedings a regulation that currently exist in proceedings including the tax avoidance clause. The proposed regulation does not, however, come without shortcomings. Its purpose is, as is apparent from the justification of the Bill, to accelerate the settlement of cases and reduce the costs of ongoing proceedings. However, in order for the obligated person to be convinced as to the legitimacy of correcting a previously submitted return, they should know the position of the tax authority, i.e. they should be aware of whether their settlement can be questioned, and – therefore – whether a tax assessment decision may be issued, and if so, to what extent. Not knowing the position of the tax authority, the obligated person is unlikely to decide to submit such a correction, and thus the purpose of the regulation will not be achieved. It remains to be considered that at the stage of familiarizing oneself with the evidence, the taxpayer should have knowledge of the current position of the authority in a given case, as this would not only allow a correction to be made as expected by the authority, but it would also be a significant help in making any further evidentiary applications.

Similarly, it is advantageous to introduce the concept of simplified proceedings, i.e. ones that will be settled on the basis of facts which do not raise doubts when the tax amount does not exceed PLN 5,000, within 14 days.

3. Amended provisions

Limitation of tax obligations

As can be seen, the provisions on limitation of tax obligations have been significantly modified. The Committee has split the limitation period into two separate periods, i.e. the limitation of assessment and the limitation of collection. It seems that the intention to make such a division was the aforementioned balancing of the interests of the taxpayer and the State Treasury, the tax office. The obligated person has the right, and this is also included in the Bill in Article 33 Item 7 of the Bill, to stabilize legal relations by means of the limitation period. It can therefore be seen that the limitation period for the tax liability has even acquired the characteristic of a subjective right, legitimate be-

cause of the expectation of the obligated person towards the state authorities. However, it should not be forgotten that the state authorities have been granted the right to place or enforce tax obligations in a longer period than at present.

Doubts related to the proposed regulation are, however, primarily caused by two issues: firstly, the adoption of the principle that for the tax authorities to comply with the limitation period it is sufficient to deliver an assessment decision of the first instance authority. This rule or this regulation is similar in essence to the one currently in force regarding the establishing decision, i.e. a decision establishing a tax liability, where it is sufficient to issue such a decision before the expiry of that period for the limitation period to be complied with. It should be noted, however, that the new Tax Code refers to an assessment decision, i.e. any decision determining or establishing the tax liability. The limitation period provided for in the Tax Code seems sufficient to conduct tax proceedings and issue a decision of both instances. Therefore, in my opinion, the Bill should be changed in this respect. The second issue that raises doubts as regards the limitation period is the introduction of two separate limitation periods depending on the type of tax, i.e. the limitation period of 3 years or 5 years (with regard to more complex taxes, as one can suppose). Given the right granted to the obligated person to the settlement by statute of limitations, the proposed regulations should aim at mobilizing tax authorities to act as soon as possible, to initiate possible tax audits or tax proceedings as soon as possible. This regulation should go not only towards the recognition that the decisions of both instances should be taken before the expiry of the limitation period, but also that the period should be unified for all taxes and amount to the period of e.g. 3 years suggested by the Committee.

Overpayment

On the other hand, what deserves a disapproval is the regulation, according to which the existence / statement of the existence of an overpayment depends on the tax authority proving that as a result of the recovery by the obligated person of the amount of overpaid tax or the amount unduly paid as tax, this will not lead to unjust enrichment of the obligated person.

First of all, it should be noted that the tax authority enters into the area of possible settlements between the taxpayer and their contractors. Secondly, I find it wrong to identify the situation in which the tax burden was passed on to the contractor with unjust enrichment. The economic reality is much more complicated and the price calculation depends on so many factors that it seems abusive to assume that the recovery of this tax causes unjust enrichment of the obligated person in a situation in which a given tax is of price-making nature and has been passed on to the contractor. It cannot be forgotten that increasing the prices applied by including irrecoverable tax in them may, in fact, lead to a loss on the part of the obligated person, as the increase in price may result in a decrease in turnover or revenue[10], and consequently profits. Moreover, this regulation may lead to an excessive burden of tax authorities with the obligation to take evidence regarding the method of price calculation and the occurrence or non-occurrence of this unjust enrichment. Therefore, we may be faced with a situation in which the action of a tax authority is contrary to one of the general principles of tax law, i.e. the principle of proportionality. In addition, it should be noted that the proceeding regarding overpayments will take place in two stages. First, the tax authority will verify whether there are any overpayments, e.g. whether a given expense may in principle constitute a tax deductible cost, or whether the taxpayer was required to tax a given transaction. In the next stage, however, it will be necessary to conduct proceedings whether in this particular case this specific action has led or not to unjust enrichment of the obligated person. Contrary to the directives contained in the Bill, this may lead to excessive burden on the taxpayer, unproportionate actions of

[10] This issue was noted by Court of Justice of the European Union in cases C-147/01, C-309/06 or C-398/09.

the tax authority and unreasonably lengthy tax proceedings (causing the obligation to pay interest). There is also no regulation that would allow a person who has borne this economic burden to recover the tax paid if it was passed on to the buyer and the taxpayer did not bear the economic burden (no right to overpayment). This can also cause a significant change in the attitudes of taxpayers who pay a higher tax today for the purpose of their own security and then apply for the recovery of an overpayment, which is undoubtedly advantageous to both parties

4. Conclusion

To conclude, it should be remembered that the Bill prepared by the Committee is being analysed by the Ministry of Finance, which will probably also propose changes therein. It is important that these changes do not disturb the relationship between taxpayers and authorities proposed by the Committee. Instead, it is worth taking the opportunity to clarify any doubts that may arise, such as determining the relationship between different forms of taxpayer support or the issue of unjust enrichment. Attempts to deteriorate the taxpayer's position on the Committee's proposal can be expected here. Unfortunately, the current regulations, quite controversial for taxpayers, and frequently quite comfortable for the authorities as the possibility of suspending the limitation period as a result of instituting fiscal penal proceedings quite arbitrarily, can be adopted as a reference point.

In the course of further work on the Bill, however, one should expect the authorities to improve those provisions which are controversial in the current wording, such as the principles of liability of members of management boards of companies (i.e. the moment when the condition for filing for bankruptcy arises), the issue of the guarantor's liability (i.e. the introduction of the principle of direct enforcement of tax liability from the guarantee granted), third party liability indicated explicitly not as joint and several liability but rather as liability that is ancillary to the taxpayer, and finally, the place of the audit determined always as the place where the books are kept (without the obligation to bring them to the registered seat of the entity subject to the audit).

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Dominik J. Gajewski (General Editor) · Grzegorz Gołębiowski · Tomasz Grzybowski (Managing Editor)

· CONTACT ·

analysesandstudies@sgh.waw.pl · analysesandstudies.sgh.waw.pl · casp.sgh.waw.pl