

Description for general public

It seems that tax obligations shall be always created and annulled on the basis of tax law. In fact, the annulment of tax obligations may also be implemented taking into account different regulations like the Bankruptcy Law or the Restructuring Law.

Current legal regulations lead to a situation in which tax obligations may be annulled by many different institutions ranging from Minister of Finance Regulation to insolvency agreement concluded before court, even against the will of tax authorities. Until now the annulment of tax obligations has usually been analysed on the basis of regulations of the Tax Ordinance while other ways of annulment were omitted. Diversity of those regulations allows to pose a question about compatibility between them.

Moreover, the range of possible annulments of tax obligations seems questionable. According to the Tax Ordinance tax obligations may be annulled if they are connected with public interest or the importance of taxpayer's interest. What is more, tax authorities are also entitled not to annul tax obligations, even if it is connected with support of public interest or important taxpayer's interest, because they have margin of decisions. Such a situation in the state under rules of law seems to be inconsistent with article 217 of the Polish Constitution. According to this article the Parliament shall create a number of tax obligations in Poland, it should not be made by tax authorities with help of ad hoc annulment of tax obligations. The constitutional conformity of Polish regulations regarding annulment of tax obligations and their purposefulness is worth the analysis.

Trying to answer above questions it is helpful to analyse regulations of other states. The change of perspective allows to understand better domestic institutions and find new legal solutions. It is especially important to analyse regulations of neighbouring states like Germany or The Czech Republic. The analysis should also take into account regulations of English law based on common law which is fundamentally different from Polish law.

Regulations of the states mentioned are indeed different as for the annulment of tax obligations. In The Czech Republic there is tendency to restrict the possibility to annul tax obligations while the possibility to annul tax obligations is being extended in English law. Dynamic development of consumer insolvency in mentioned states is a contrary phenomenon.

Suggested research should not only complete scientific output, but also have a positive impact on further development of insolvency law. Insolvency law which is currently developed especially by private law firms, requires analysis from tax law point of view. Tax obligations are significant for debts in insolvency. Therefore, presented problems have influence on both the amount of tax obligations and economy.