Countering Corporate Income Tax Avoidance and the Administrative Courts Jurisprudence: How Globalization determines Tax Policy

According to OECD, $240 billion are lost annually due to tax avoidance by multinational corporations. Noteworthy, the nature of the threat posed by the Corporate Income Tax (CIT) avoidance to the state's fiscal security is qualitatively different than in case of '*VAT gap*'. While VAT frauds tended to rely on quite straightforward *modus operandi* involving reclaims extortion, CIT avoidance is based on sophisticated financial instruments used in cross-border transactions. Usually, it is literally done in compliance with law – although violating the very purpose of this law. As a consequence, confronting it is much more demanding and requires different mechanisms.

Research project address the issue of CIT avoidance on two levels – the root causes (structural changes in the global economy, that allowed this phenomena to reach the currently observed scale) and the policy responses developed at the national as well as international level.

As far as root causes are concerned, project examines structural changes of the global economy, that can be traced back to the ninety-seventies. Shift towards (i) growing reliance on intangible capital and services (so called IIIrd and IVth Industrial Revolutions); (ii) *financialization* of the economy and (iii) the emergence of the global value chains and capital flows – undermined the ability of accounting framework to provide a '*true and fair*' picture of corporate operations. Thereby, it questioned viability of the accounting category of *corporate profit* as a tax base for corporate taxation in the modern economy. In other words, problems with CIT avoidance extend beyond issue of compliance, involving the suitability of the whole framework in the contemporary digital economy.

However, policy responses devised to this problem on the country-level – as well as by the multilateral organizations like OECD and EU – tend to revolve around the current CIT framework. They include slashing statutory CIT rates – resulting in (sometimes predatory) tax competition – and painstaking loophole closing. Even recent Biden's administration initiative regarding (i) globally co-ordinated minimum corporate income tax, and (ii) reallocation of taxing rights generally fits broadly defined CIT framework - however the latter proposal involves taxing companies as a whole, instead of relying on the 'arm's length' transfer-pricing for some categories of profits.

Proposed project addresses CIT anti-avoidance policies within the complex environment, including external factors (global trends and multilateral initiatives) and internal factors (jurisprudence of the independent Administrative Courts, determining legality of tax administration acts).