
Annual Center Review^{'16}

INCOME TAX BASED ON REAL ESTATE LEASE

CAROUSEL FRAUD IN FUEL AND ITS SOLUTION FROM THE VIEWPOINT OF THE CZECH VAT ACT

PROVIDING THE RIGHTS AND FREEDOMS OF INDIVIDUALS AND CREATING THE INTERNAL REVENUE CODE

COUNTRY BY COUNTRY REPORTING

THE ECONOMIC CONCEPT OF THE TAX CODE: INITIAL POSITION

SCIENTIFIC JOURNALS OF THE REPUBLIC OF BELARUS IN WHICH CAN BE PUBLISHED RESULTS OF SCIENTIFIC ACHIEVEMENTS OF RESEARCHERS OF LAW

PRINCIPLES AND PROBLEMS OF EVALUATION AND PROPAGATION OF SCIENTIFIC PUBLICATIONS IN SLOVAKIA

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THE SYSTEM OF PUBLICATION OUTPUTS EVALUATION IN THE CZECH REPUBLIC

EVALUATION OF SCIENTIFIC PUBLICATIONS IN THE FIELD OF LEGAL SCIENCES IN HUNGARY

FORTY YEARS OF RESEARCH AND TEACHING OF PROFESSOR JANUSZ STANKIEWICZ



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J. Stankiewicz, P. Woltanowski, E. Lotko

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Foreword from the Editorial Board

This issue of the Bulletin has been published on the occasion of the 15th anniversary of the founding of the Association “Center”. It aims to present selected achievements of the Association in the period 2002-2016, in order to facilitate further discussion on the development of the Association in the changing world.

These achievements were possible thanks to the various activities of the members of the Association, the financial generosity of some, the social engagement of the “Center” authorities, and the support of many institutions and universities. Among the latter, we should stress the special role of the Faculty of Law at the University of Białystok, where the Association is active and Voronezh State University, where the Russian branch of the “Center” functions.

It is these factors, reinforced by the significant results of the Association's activities and its new initiatives, that will determine how the “Center” will face up in the future to the tasks of further integration of the community of finance specialists of the countries of Central and Eastern Europe.

For the Editorial Board

Prof. zw. dr hab. Eugeniusz Ruśkowski

Białystok, lipiec 2016 r.

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Dear Readers

It is a great pleasure to introduce you to the new issue of the Annual Center Review. The Annual Center Review, as a joint project of the Association Information and Organization Center for the Research on the Public Finances and Tax Law in the Countries of Central and Eastern Europe, as well as the Faculty of Law at the University of Białystok, will present academic accomplishments of the Association Center and the Faculty in the area of research on the issues concerning finances of the countries in this part of Europe. It is essential that our Review promotes texts of doctors and doctoral students besides the elaborations of experienced researchers.

This issue is devoted to the problems of discussions during XV jubilee conference of the Center on "Concepts of Tax Codes. The Fifteenth Anniversary of the Center's Activity" which will take place on 25-27 of September 2016 in Białystok.

In this current issue we are publishing texts sent to the conference which by the decision of the Editorial Board do not substantially correspond to the formula of the conference but present significant and up-to-date problems in public finances and tax law in such countries as Belarus, the Czech Republic and Russia as well as texts concerning the rules and problems of evaluation and popularising scientific achievements of the members of the Association. Elaborations presented in this part regard such countries as Belarus, Hungary, Poland, the Czech Republic and Slovakia.

In this issue on the occasion of 40 years of scientific and didactic work of Professor Janusz Stankiewicz we are publishing a scientific CV of the noble jubilarian whose activity has had a diverse and versatile influence on the development of science and methodology of teaching of financial law in the Białystok Scientific Unit.

I wish you a pleasant reading.



INCOME TAX BASED ON REAL ESTATE LEASE

Introduction

There are many ways and possibilities to lease one's own real estate property intended for accommodation. All of these possibilities are the object of income tax of course, basically because there is simply an income.

The aim of this article is to analyze taxation of natural personal income, not the income of legal entities. In the law of the Czech Republic there is only one Act on Income Tax for both legal subjects – natural persons and legal entities, but only natural persons are interesting for us here, because the income type of legal entities plays no role for taxation, but there are some differences in taxation for natural persons, especially in the matter of lease or accommodation.

The purpose of leasing is to accommodate someone for a certain period, so differences between lease and accommodation are not very clear for the basic practical use of these terms. Real differences could be shown from the legal point of view for a lease contract and contract of accommodation. These differences could be very useful for real estate owners in order to decide which of these contracts could/must be applied in different cases of letting a flat, house or single room for the temporary use of somebody else. One of the most important factors for contract designing is the issue of tax, because in every country income tax is a “negative” part of the final income for the owner.

Accommodation contract and lease contract

The basic difference between a contract of accommodation and a lease contract is the fact that an accommodation contract is used for a shorter time period of housing (typically in hotels or hostels) and a lease contract is used for a longer period (a few months or years). Legal terminology also knows a short-term lease contract, which could be used for a shorter period, but only for flats and houses. So it looks like lease contracts are always used when somebody wants to lease a flat or house, but is this always true?

For many property owners who provide residential facilities to use or to lease to others the accommodation contract option is surely preferable at a time when problems occur with a user who, for example, does not pay the rent. In certain cases an accommodation contract cannot be used because of its very nature – it is designed for temporary occupation, for example hostels or university dormitories provide housing, which stays on the border between lease and accommodation, and almost always these institutions use an accommodation contract.

One of the questions I ask myself is whether the owner of a flat could provide dormitory-type housing, such as university dormitories, where part of the dormitory room is the bathroom and kitchen, and it is essentially a studio. Theoretically not, because the lease of the flat should be wherever it is a flat or house, but on the other hand, there is nowhere explicitly stated prohibiting providing a flat just for accommodation based on an accommodation contract.

Legal practice constantly takes the view that when assessing whether a set of rooms (or single room) is a flat or not, it is necessary to proceed based on the constructed legislation; in this context, building approval status is crucial, rather than a factual way of usage.¹

The Supreme Court of the Czech Republic published a definition of a flat which assumes the final decision of the Building Authority that a set of rooms (or single room) are eligible for permanent use and are intended for permanent housing.²

Based on my opinion, it is possible for the purpose of housing to let another person use a flat or house with a lease contract as well as an accommodation contract. It is a private law relationship, and if both parties agree with the accommodation contract, where the legal protection of this relation, especially the protection of the accommodated person, is far weaker, the autonomy of will is not prohibited.

The accommodation facility cannot be used for a lease contract, especially if it would be a long-term relationship providing permanent housing, only because of the characteristics of the accommodation facility, respectively the characteristics of the rooms that serve to accommodate in such facilities. This conclusion is supported by the Czech Civil Code, where it stands, that provisions of flat leases shall not be applied in cases of letting a flat or house for recreation, and apparently a short-term purpose.³

Ordinary lease or business lease

Business means an organization or economic system where goods and services are exchanged for one another or for money. Every business requires some form of investment and enough customers to whom its output can be sold on a consistent basis in order to make a profit.⁴

For the purposes of this article, it shows the basic and most important difference between incomes from ordinary (or just single) lease of real property and income of a profit-making business based on lease.

When there is a person owning one or two real estate properties, which are leased by himself,⁵ we clearly see the case of ordinary (not business) lease income.

On the other hand, when there is a person owning 10 different real estate properties, basically with the purpose of lease and further profit making, we do have a lease business here mainly based on two important signs. The first is the quantity of owned real estate properties and the second is the consistent basis of this activity⁶ in order to make a profit. This person also needs an administrative permit to run a business and have regular income from this activity.

Ordinary lease characteristics:

- small number of real estate properties owned and leased (typically one or two properties);
- family property or just randomly purchased property as an investment;
- not consistent basis of leasing.

Business lease characteristics:

- quantity; usually more real estate properties owned;
- systematic purchase of properties to make the portfolio of properties wider;
- the ONLY reason for purchasing the properties is to lease them in order to make a profit;
- consistent basis of purchasing properties and leasing.

This perhaps sounds a little complicated, but it is a big difference between different types of income (for tax purposes). When there is any kind of profit-making business (lease business included) it always has to be taxed the same way with the same tools, the same tax deductible expenses and with the possibility of lump sum expenses.

There has to be the existence of the above-mentioned differences of the lease, especially because there are many owners of single real estate property and they do not need it for housing themselves, their goal is not a real business, but to collect some extra money to maintain that property. They are allowed to have some extra income from the value of the property, since they do not operate with cash in an adequate amount as a value of their property.

Lease, accommodation and income tax

As was mentioned previously, both of these types of contracts are the subject of income tax. There are some

differences in tax legislation for natural persons and their income tax, which is very important for contract type selection of the owners, but only in those cases where they could really decide and choose from these contract types.

Is the income from both contractual types the same or is there any difference? It is clear that income from these activities is the subject of Act no. 586/1992 Coll. the Income Tax Act, as amended, where § 9, which regulates lease income can be found. It is very clear, that lease income is regulated uniquely in this Act, unlike accommodation income, which belongs under § 7, where general business income and other self-employment activities are regulated. This section also deals with lease income if the real estate property is registered in the business property, listed in accountancy or tax records. This means that lease income is specific income of natural persons, but it cannot be regular profit-making business income.

Another important difference between income from accommodation and lease income, for the purposes of the Income Tax Act, is that accommodation is always business activity, but lease is only in some cases, as explained above in detail. In general, for tax purposes, accommodation is equivalent to business lease and it is under regulation §7 of the Income Tax Act. The decision whether to use an accommodation contract or lease contract is also a decision between using § 7 and § 9 of the Income Tax Act.

However, what is the main difference for practical usage of § 7 and § 9 of the Income Tax Act? Without any doubt, the main difference is the duty of social security and health insurance payment while using § 7, in other words an accommodation contract or business lease, and thus net income is lower. In both cases, lump sum expenses could be used. For a lease income, lump sum expenses are 30% of income, with a max limit of CZK 600,000. Anyone can choose between lump sum expenses and real expenses, but it is not possible to change it during the tax year. Real expenses are also administratively more difficult.⁷

In relation to taxation of lease income, I would like to point out an interesting decision of the Supreme Administrative Court of the Czech Republic about the tax consequences of the non-valid lease contract.⁸

The decision underlines that for tax purposes in the context of public relations between the taxpayer and the tax

administrator it is an important factual status compared to the private-law relationship of several taxpayers or a taxpayer with a third party. There was a void contract between two taxpayers, but one of the parties declared lease income and the other party applied tax deductible expenses, so they don't reflect the private law consequences of contract nullity. In other words, when both parties of the invalid contract behave like the contract is valid, then nullity of the contract has no effect on taxability of acquired income and deductibility of the costs.⁹

Airbnb and housing provision income

Airbnb is a trusted community marketplace for people to list, discover, and book unique accommodations around the world — online or from a mobile phone. Whether it is an apartment for a night, a castle for a week, or a villa for a month, Airbnb connects people to unique travel experiences, at any price point, in more than 33,000 cities and 192 countries. And with world-class customer service and a growing community of users, Airbnb is the easiest way for people to monetize their extra space and showcase it to an audience of millions.¹⁰

This marketplace is really an interesting area for analyzing taxation of lease income. The question is, whether income from using this marketplace is subject to taxation and if so, is it lease or some kind of accommodation contract? My own hypothesis states that it is the object of income tax only if it is provided for hosting regularly and it could be short lease or accommodation, but it is not ordinary lease income and § 9 should not be used.

The problem arises in the case when there is a person who provides more than one place to rent for this marketplace. A typical case is a person who rents for himself many flats only for the purpose of “sub renting” or providing these flats to Airbnb users. Without any doubt, there is an income tax duty for this person and based on my opinion it is a business lease, because it has all the above-mentioned signs of a business lease. I don't really think, there are many such persons who really pay income tax based on using this marketplace, but those who pay it try to search for the possibility of how to use § 9 with all of its advantages for this kind of income.

Any person acting as a host and his own earnings from providing accommodation in this way may be subject to income tax. Since this marketplace is based and registered in the USA, it deals mostly with US tax law and payouts in the USA. Airbnb assists with US tax compliance, and collects taxpayer information. Even if the host is not a US taxpayer, Airbnb may still require certain information from the host.

In the USA Airbnb is required to withhold 30% on all payouts from US listings hosted by non-US persons unless valid tax treaty benefits have been claimed.¹¹

In other countries, all hosts have to deal with tax returns and pay income tax on their own, but it would be definitely reasonable if Airbnb withheld part of all payouts all around the world. All payouts in Airbnb should be subject to income tax everywhere and tax deduction would be a guarantee of legal tax compliance. The question is, whether it would be too much administration for Airbnb to find out all the tax duties and follow all the countries' tax compliance.

Conclusions

This article deals with more than one goal. I tried to compare usage using two different contracts with the context of income tax and different possibilities of the Income Tax Act. The contract of accommodation and lease contract are two different types which could be used in different situations. Generally there is autonomy of will, so contractual parties could choose their own contract, but there are always some mandatory provisions of law and contractual parties cannot do the opposite of what is stated in mandatory provisions. One of the examples could be the provisions of the Czech Civil Code about flat lease.

An accommodation contract could be used by the owner of a flat anytime, but a lease contract could be used only for long-term lease. The disadvantage of a contract of accommodation compared to a lease contract is a slightly higher tax burden, but legal provisions for this contractual type are less strict in favour of the owner. For users who want to use the flat or house for housing, it is always better to use a lease contract because of their higher legal protection.

The other aim of this article focused on taxation of income through Airbnb. Income from hosting travellers using the Airbnb marketplace is providing accommodation and it is subject to income tax. When it is not the regular activity of the provider and not with more flats or rooms provided, then it is just subject to ordinary lease income, not business income.

Abstract

This article deals with income tax, mainly in the Czech Republic related to lease income. The author tries to compare two kinds of contracts dealing with housing regarding personal income tax. There are some tax possibilities for taxpayers in relation to choosing which contract to use. One of the most important criteria in deciding which contract could be used are tax implications in the event that both kinds of contracts are in compliance with the law. One of the parts of this article deals with the taxation of income from housing provision through Airbnb.

¹ See Czech Civil Code commentary, C.H. Beck, Praha 1994, 6th ed., 2001, p. 1068.

² Decision of Supreme Court of Czech Republic made 22.10.1999, ref. no. 2 Cdon 1010/97. Or Decision of Supreme Court of Czech Republic made 29.5.2001, ref. no. 26 Cdo 2152/2000.

³ See Section 2235, paragraph 2 of Czech Civil Code.

⁴ Ref. Businessdictionary.com. [cit. 27-03-2016]. Available from < <http://www.businessdictionary.com/definition/business.html#ixzz446Vm7vqX> > .

⁵ Renting the real estate in this case is not with the aim of only profit making, basically because of its singularity, or this real estate was not purchased as a subject of profit coming from a lease, but it could be just single investment of available funds, or inheritance for the owner or something similar. It's just not the activity maintained from the beginning in order to make regular profit from lease business.

⁶ At this point activity means: Searching for new real estate property in order to buy it with the purpose of renting it. This activity aims for regular profit of the owner.

⁷ Records of income and expenses, evidence of tangible assets that could be depreciated, records of creation and use of reserves for maintenance and repairs of tangible assets, if it is created, records of assets and liabilities in the tax year in which there is a termination of the lease, and payroll sheets if there are salaries. In contrast, the use of the option of lump sum expenditure involves "just" records of income and claims associated with the lease.

⁸ Judgment of Supreme Administrative Court of Czech Republic of 16.01.2011 ref. no. 5 Afs 22/2011-72, or Judgment of Supreme Administrative Court of Czech Republic of 31.03.2011 ref. no. 9 Afs 81/2010-180.

⁹ Judgment of Supreme Administrative Court of Czech Republic of 31.03.2011 ref. no. 9 Afs 81/2010-180.

¹⁰ Ref. Airbnb. [cit. 27-03-2016]. Available from < <https://www.linkedin.com/company/airbnb> > .

¹¹ Ref. Airbnb. [cit. 27-03-2016]. Available from < <https://www.airbnb.com/help/article/481/how-do-taxes-work-for-hosts> > .

CAROUSEL FRAUD IN FUEL AND ITS SOLUTION FROM THE VIEWPOINT OF THE CZECH VAT ACT

Introduction

Some authors state that Value Added Tax (VAT) is a very good, strong and profitable tax¹ and that VAT revenues make up more than one fifth of global tax revenues². However, recent results have shown that EU Member States are affected by VAT fraud³. Losses to VAT fraud are estimated to be EUR 100-200 billion every year and vary considerably depending on the indicator variables used⁴.

Lazăr⁵ refers to carousel fraud as a specific type of VAT fraud, which is basically a sophisticated system of selling taxable goods. It has a multiple structure in which taxpayers from several countries are involved. Carousel fraud uses complex mechanisms that make fraud and fraudsters hard to spot. As reported by Pfeiffer and Semerád⁶, some tax authorities tried to hold the participants in carousel fraud liable for the lost VAT. However, the key feature of the missing trader is that they either disappear or go bankrupt. A common practice is that tax liability is transferred to an entity that cannot be punished, thus acting as a buffer. Professionally educated and well-organized groups focus mainly on items that are easy to sell and transport and that can be easily mixed up. In the past, carousel fraud was prevalent in sectors such as microchips, mobile phones and sunglasses.

This systematic and widespread fraud prompted the European Commission⁷ to amend Directives governing VAT administration and collection. The measures of Member

States have considerably been weakened since all proposals have to be in agreement with the Directives. Any deviation from the Directives becomes a stimulus for the ruling of the European Court of Justice.

The European Court of Justice (ECJ) has ruled on many issues dealing with national solutions. A limit on excess deductions refund can be used as an example⁸. The Polish tax authorities (C-25/07) refused to refund the excess deduction within the standard period of 60 days and postponed it until 180 days (according to national law). Decisive in this case was the fact that the taxable person started his business less than 12 months ago. The ECJ stressed that *the right to excess deduction refund is an integral part of the VAT mechanism and cannot be restricted*. As previously ruled by the European Court of Justice (C-78/00), the conditions set by Member States for the deduction refund cannot undermine the principle of neutrality, and the refund of excess deduction must be made within a reasonable time and must not involve any financial risk for a taxable person (C-78/00). Although Member States determine processes and develop tools to protect their interests, they must do so in accordance with the principle of proportionality and use tools that impede the objectives and principles of the Community as little as possible. Accordingly, the ECJ ruled that *this is not a special derogation measure whose aim is to prevent certain types of tax fraud*.

Hungary, therefore, chose another process. Article 183 of Council Directive 2006/112/EC allows Member States to carry the excess forward to the following period or

determine conditions for its refund if the amount of deductions exceeds the amount of tax due for the tax period. The outcome was that Hungary did not pay practically any excess deductions. This resulted in the never-ending postponement of excess deductions, which *contradicts the principle of tax neutrality, since the provision of Article 183 cannot serve as a basis for adopting national rules*. According to the Commission, any delay in the refund of the excess reduces the solvency of a taxable person. The same conclusion was also reached by the ECJ.

The Italian Republic was unsuccessful at the ECJ (1991) as well when it tried to advance tax because it set the annual tax period for VAT. The interpretation of Articles 10 and 11 of the Sixth Directive on whether Member States may require payment of VAT on services that have not been rendered and on money that has not been accepted was controversial. Another question was whether a taxable person could invoke the respective provisions at the national court.

The ECJ ruled in its judgement that it is in contradiction to Articles 10, 22(4) and 22(5) of the Council Directive 2006/112/EC to require taxable persons to pay 65% of the previous tax liability in the period which has not yet ended. The taxable persons required to do so may invoke the above-mentioned provisions of the Directive at the national court.

From the above examples it is evident that individual states have desperately wanted to stop carousel fraud. Although the reverse charge mechanism exists in many states, it cannot be applied to all taxable transactions.

Aim and methodology

The aim of this paper is to highlight the concept of the VAT Act that has been amended since 2011 to stop carousel fraud. The VAT Act is structured to meet the requirements of the Directive on tax collection and at the same time to create barriers against fraud.

In the paper standard scientific methods such as analysis and description were employed. Analysis was used to assess particular measures and description helped explain

local specifics with regard to tax collection and anticipated developments.

Czech Law on Value Added Tax

Like most states, the Czech Republic also has its problematic area where huge VAT losses are incurred by carousel fraud. It is just the fuel that has led to a need to change the conditions under which the tax is levied. The government and entities doing business in this field are confident that the reverse charge mechanism should be the right solution in the fight against fuel tax fraud. Therefore, in February 2010⁹ the Czech Republic asked the European Commission for an exception to introduce this instrument for fuel¹⁰. The request was rejected with a recommendation to use some other tools first in both tax and non-tax areas¹¹.

On the grounds that it can be traced, this could contribute to better check and registration of traders selling goods subject to excise duty. Furthermore, it is possible to introduce a rule that customers of missing traders are jointly and severally liable for unpaid tax if they knew or could have known they were participating in VAT fraud, which can partly be presumed by the fact that the trader is a new entity in the market and that the price is lower than the usual price¹².

After its request had been rejected, the Czech Republic started to set out its own rules to combat fraud. Besides the ever expanding and complementary cooperation between the General Financial Directorate (GFD) and the General Directorate of Customs (GDC), Police of the Czech Republic (PCR), Financial Analytical Division (FAÚ) and other interested institutions, there are also new measures aimed at high-risk areas in tax administration.

Liability of the recipient of a taxable supply

Council Directive 2006/112/EC allows Member States to make the person acquiring goods or services¹³ liable to pay tax. Member States may also decide that a person other than the person liable to pay tax¹⁴ will be held liable jointly and severally for payment of VAT. Article 109 of the VAT Act defines the conditions under which liability

is transferred to the recipient of a taxable supply (hereafter referred to as the recipient).

The first condition is directly related to judgments dealing with the consciousness (unconsciousness) of the tax entity that it is being involved in trade which is or will be in a different form affected by fraud, or possibly it could have known about it (Halifax, Kittel, Optigen). If this fact is proved, the joint and several liability rules will be applied. Otherwise, it is impossible to deny the right to deduct because of the principle of neutrality.

Awareness or lack of awareness need not be the only identifier that puts pressure on the caution of the recipient of a taxable supply. Liability passes to another person even if the payment for a taxable supply is (Article 109 (2) a-c VAT Act):

- a) *“without any economic justification and the price is apparently different from the usual price,*
- b) *made wholly or partially by bank transfer to the account of the payment service provider outside the country or*
- c) *made wholly or partially by bank transfer to the account other than the account of the provider of a taxable supply which is published by the tax authorities and can be checked remotely.”*

According to the General Tax Directorate¹⁵ the usual price can be found out by analysing negotiated prices in the segment of the market of comparable property or services at a given time in a given place.

The question of payment into the account published in the country could have been the reason why taxpayers began to favour payment in cash, which exempts them from being held liable for unpaid tax. They can do so when paying for smaller taxable supplies, but also when the price of a taxable supply almost reaches the maximum threshold limit of CZK 350,000 according to the law on the restriction of cash payments. The legal measure of the Senate (Collection of laws no. 344/2013) determined the limit for payments in Article 109 (2) c of the VAT Act for supplies that twice exceed the defined amount, i.e. CZK 700,000. According to the explanatory memorandum (MF ČR, 2013) *“this measure will give rise to liability in cases where there is a need for caution because of the increased*

risk of non-payment of VAT and a potential negative impact on the revenues of public budgets.”

A background check of business partners by recipients must also be performed because recipients are required to monitor whether the person providing a taxable supply is not at the time of delivery identified as an unreliable payer¹⁶.

Article 109(4) of the VAT Act is important in relation to fuel tax fraud because the *“recipient of a taxable supply (fuel delivered by a fuel distributor)¹⁷ is under the fuel regulating law held liable for unpaid tax on this supply unless at the time of supply there is a record published about the supplier which can be remotely verified that he is registered as a fuel distributor under the fuel regulating law.”*

Special way of tax securement

Recipients of taxable supplies may legitimately fear penalties for non-payment of tax by their providers (suppliers). A special way of tax securement defined in Article 109a of the VAT Act states how payment of VAT to the tax authorities should be made. The recipient of a taxable supply eludes future liability for a provider who does not pay tax on a particular supply.

Tax period and change of the tax period

From 1 January 2013 all newly registered taxpayers have a mandatory monthly tax period (§ 99 ZDPH and § 99a ZDPH). Although the quarterly period has not been cancelled, the transition from the monthly to the quarterly period has been tightened. The lawmakers most probably wanted to prevent purposely established payers from carrying on their business and thus generating profit throughout the quarter which will never be taxed in the future. Whereas recipients could have claimed a deduction as monthly taxpayers, providers of taxable supplies, quarterly taxpayers ended up insolvent at the time when they were to pay the tax.

In general, this provision can be circumvented by purchasing an existing company or a company established for the purpose of sale (*shell company*¹⁸) registered as a quarterly taxpayer.

Special record-keeping obligation

On the basis of the decision of the tax authorities (since June 2010) fuel traders are obliged to keep separate records for each individual purchase of mineral oil for the purpose of reselling. Special records are also required for the sale of more than 100 litres of fuel, which was not decanted into the integral vehicle's fuel tank and used to propel the vehicle¹⁹.

The tax administrator meant this as a tool for tracking fuel movement. A similar principle of taxpayer supervision in real time can be found in proposals for electronic book keeping²⁰. Vitek²¹ is, however, against other regulations that may have a negative impact on the market and proposes searching for some other tools. Semerád²² pointed out a possible drawback to these special record keeping obligations. The tax administrator does not require the key information – the number of the bill of lading, which specifies the shipment. Since June 2015 this special record keeping obligation has been under the Customs Administration, which decides about possible deposit reduction. For this activity it needs enough information on the market and individual fuel traders.

VAT control statement

The VAT control statement is one of the innovations that came into effect on 1 January 2016. How does it work? Only VAT-registered taxable persons are obliged to submit the VAT Control Statement (Articles 101c – 101i, VAT Act). The VAT Control Statement does not substitute a VAT return or a Recapitulative Statement for Intra-community supplies. The data are collected from issued and received tax documents. Simplified tax documents (valued at less than CZK 10,000 incl. VAT) are collected as well. The VAT Control Statement has to be submitted electronically and there is no (temporary) exemption from this duty.

The main task of this policy is to check tax liability of all taxpayers in a relatively short time. The VAT Control Statement is to be sent off no later than the due date of tax returns. This enables the tax authorities to match the tax document in which the recipient of a taxable supply claims the excess. If there is such a claim, then the output

tax should have been paid on this supply. If there are any inconsistencies revealed, the tax authorities ask the taxpayer to explain the situation and provide the necessary information. On the basis of this call the right to claim the excess can be delayed. It is quite strange that if the payer is asked by the tax authorities to make corrections, they will automatically be fined. This rather strict penalty should be changed from June 2016²³.

The positive side is that the tax authorities can at least see who the entity does business with. If the tax authorities find a suspected entity or an entity involved in carousel fraud, they can easily trace the other businesses in the chain. Subsequently, they can apply all legal measures to recover the tax from other entities on the basis of liability for unpaid tax.

Conclusions

The paper deals with the problem of carousel fraud on value added tax. The author focuses on the concept of the Czech Value Added Tax Act which has been amended since the year 2011. One of the main motivations is to tackle fraud in the fuel market. The unsuccessful application in the year 2010 to introduce a reverse charge for this problematic commodity triggered the development of other tax and non-tax instruments.

The paper mentions liability for unpaid tax and related conditions for special tax securement. Special attention has been given to fuel distribution. Registration of fuel distributors is one of the non-tax instruments that reduced the market to one-tenth in a very short time. Also, the special record-keeping obligation is not based directly on tax laws. The database enables the monitoring of the movement of goods between individual distributors. Perhaps this has become a model for VAT Control Statement, which is a new responsibility of all VAT payers, not only fuel traders. This is online delivery of documents for tax returns. The tax authorities immediately have all the important data to take a decision about the eligibility of a claim, but also about trade between businesses. If a fraudulent entity appears in the chain, there are filters that can help search for other entities in the chain to which liability for unpaid tax can be applied.

Every solution has a problem with its application. Taxpayers can easily adapt to the new situation and fraudsters are able to circumvent even the best measures. The Czech VAT Act should therefore be looked upon as a set of solutions which if used together can create quite a powerful tool to tackle VAT fraud.

Abstract

The paper deals with the problem of carousel fraud on value added tax. The author focuses on the concept of the Czech Value added tax Act, which has been amended since the year 2011. One of the main motivations is to tackle fraud in the fuel market. The unsuccessful application in the year 2010 to introduce a reverse charge for this problematic commodity triggered the development of other tax and non-tax instruments.

The paper mentions liability for unpaid tax and related conditions for special tax securement. Special attention has been given to fuel distribution. Registration of fuel distributors is one of non-tax instruments that reduced the market to one-tenth in a very short time.

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¹⁴ Article 44 Directive 2006/112/EC.

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¹⁶ *Should the taxpayer seriously neglect his duties relating to tax administration, the tax authorities decide that this taxpayer is an unreliable payer (Article 106a (1), VAT Act)*.

¹⁷ *Fuel distributors have to meet relatively stringent criteria for register. The heaviest burden imposed on them is the compulsory deposit or bank security of 20 million CZK. In justified cases the security for small distribution companies can be reduced to 10 million CZK. The precise conditions and set out in Fuel Act. This obligation is effective from 1 November 2013 and had a dramatic impact on fuel distribution companies. After introduction of security as one of the conditions for entry into the registry, of almost 1,950 distributors about 160 of them stayed in business.*

¹⁸ Some authors (e.g. D.G. Baird, *Fraudulent Conveyances, Agency Costs, and Leveraged Buyouts*, “The Journal of Legal Studies” 1991, no. 20 (1), p. 1-24; J.C. Sharman, *Shopping for Anonymous Shell Companies: An Audit Study of Anonymity and Crime in the International Financial System*, “Journal of Economic Perspectives” 2010, no. 24 (4), p. 127-140) also call them shell, especially when they are used for fraud such as concealment of a material fact and transfer of property. Characteristic of them is that they do not have any contact data, they are mostly at virtual addresses, do not have any staff or the same employees are in companies with a similar company name (e.g. Durtschi et al, *The Effective Use of Benford’s Law to Assist in Detecting Fraud in Accounting Data*, “Journal of Forensic Accounting” 2004, Edwards vol. V, p. 17-34.

¹⁹ P. Semerád, *op. cit.*, 2014.

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²³ *The paper is based on legislation as of 31 March 2016.*

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PROVIDING THE RIGHTS AND FREEDOMS OF INDIVIDUALS AND CREATING THE INTERNAL REVENUE CODE

The point of view, in compliance with the socially-legal mechanism of protection of human and citizen rights, being the system of facilities and factors creating the necessary terms of respect of the rights and freedoms of man, that is created in modern legal systems, is widespread in scientific literature¹. This mechanism contains social norms, legitimate activity of subjects of human and citizen rights, publicity, public opinion, guarantees (general, special, legal and organizational), procedures, responsibility and control. In addition, in L.A. Morozova's opinion, this mechanism must include facilities of stimulation of realization of the rights and freedoms of man and citizen, and creation conditions when envisaging the rights and freedom can really belong to the concrete man, used by him without some external obstacles².

Thus, providing the rights and freedoms of individuals in the modern state, it is impossible to attain them simply by the acceptance of a new law (by improving the old one). The supporters of this point of view overestimate the role of law and underestimate the value of other factors that the realization of the rights and freedoms is related to, namely: material, financial, administrative and others. At the same time, the prevalence of this position (its support is declared by both researchers and ordinary citizen) emphasizing the presence of inherent sources of law plays an important role in the mechanism of protection of human and citizen rights in a modern society.

The source of law is followed by a national or international association as an external form of existence obligatorily

protected by the state or social rules of behavior - norms of law.

The Republic of Belarus belongs to the group of legal systems where the centralized source of law – a normative legal act, has a qualifying value. Actually, the Republic of Belarus' system of law is the system of normative legal acts. To provide orientation in a great number of legal norms regulating public relations, systematization of legislation is used in modern national legal systems contained in different normative legal acts. In legal science, three basics forms thereof are distinguished - incorporation, consolidation and code creation.

Code creation, in Prof. I.N. Senyakin's opinion, is the most difficult and perfect form of systematization. It can be defined as preparation and acceptance of a new legal act – a code connecting native, both external and internal, processing of current legislation³. The results of code creation can be bases, positions, codes, etc. The adopted acts are independent sources of law. State organs and subjects realizing legally binding obligations must allude to them. Code creation is effected by authorized public organs periodically and when an objective necessity of associating normative material into one organic act appears. Code creation always carries an official character. Code creation is influenced by the norms of law (it differs, for example, from incorporation by the fact that the subjects carrying out code creation deal with normative legal acts). Code creation is directed at simplification of public relations adjustment as it assists forming clearer sources of law.

A result of code creation is an organic act, in particular a code, which differs in whole by several advantages. A code is a collection of legal norms that groups norms of law and expounds them in the systematized and successive manner regulating certain aspects of public life.

From the legal point of view, the value of a code is also great. According to the Law of the Republic of Belarus on normative legal acts of the Republic of Belarus (part 6, Article 10) being in force in the Republic of Belarus, codes have a large legal force in relation to other laws⁴.

Scientific sources distinguish a few types of code creation. They are universal, branch-related and special. Universal code creation aims at the creation of normative legal acts uniting basic branches of legislation. Such code creation was made, for example, by the issue of the complete collection of laws of the Russian Empire. Branch code creation unites legal binding obligations with certain sectors or sub-sectors of legislation. Special code creation unites norms of certain legal institutes or a few legal institutes.

From the point of view of the subjects, realizing the requirements of legal norms, legislation which includes codes has a number of advantages. Thus from the point of view of access to knowledge about the requirements of legal rules, searching them in a code looks more comfortable than looking for them in numerous normative legal acts. Normative material in a code is systematized and subject to certain logic of exposition. For an individual, clear exposition of the norms of law in a code and also its stability, i.e. the protracted enough period of its existence without making alterations in maintenance, has a special value.

Systematized legislation determines quality of legal practice founded on it. The law applying practice of special public organs based on the codes differs, as it appears, in larger uniformity and predictability. Moreover, it is much easier for a citizen to contest the law applying acts based on the norms of one source of law. Accordingly, effectiveness of the indicated actions can be higher.

Legislation including a code allows to carry out an effective control over the activity of law applying organs to a greater extent.

Tax law creation code is a special type of code creation. It is an appropriate result of perfection of normative legal acts which regulate the sphere of taxation. The Internal

Revenue Code of the Republic of Belarus united in itself legal norms contained before in different normative legal acts regulating both concrete types of taxes and payments and procedure of their collection. Before the introduction General and Special Parts of the Internal Revenue Code of the Republic of Belarus, numerous laws regulating the indicated sphere operated in the territory of the Belarusian state, namely: the Law of the Republic of Belarus on state duty, the Law of the Republic of Belarus on income tax from natural persons, the Law of the Republic of Belarus on value added tax and other. Besides the indicated acts accepted by the Belarusian Parliament, the sphere of public relations related to the establishment and penalty of taxes and other state payments were also regulated by plenty of acts of President of the Republic of Belarus (by decrees and orders), the Government - decisions of the Council of Ministers of the Republic of Belarus, and other normative legal acts. The existence of a great number of sources of tax law certainly hampered the adjustment of public relations that took place in this connection, unfavorably affecting realization of tax norms and their application.

The system of tax law of the Belarusian state that began to be established from the forming of a sovereign republic differed in bulkiness and complications. Another characteristic feature thereof is permanent changeability. By the end of the 1990s, in the Republic of Belarus there was a tax law falling short of the necessities of time. Imperfection of tax laws became a serious obstacle for further development of tax and financial relations in the country. This exactly stipulated the necessity of tax law reform .

The Internal Revenue Code of the Republic of Belarus was developing for long enough time. As a result, a summary of legislative acts appeared in Belarus systematizing the norms of tax law. The Internal Revenue Code of the Republic of Belarus possesses all features of organic law. It drives a large number of tax norms to the integral system coordinating and grouping them into divisions and sections. It allows to use single principles of the application of rules of tax law, identical mechanisms of adjusting them in public relations.

General Part of the Internal Revenue Code of the Republic of Belarus was accepted on December, 19 2002 and entered into force as of January, 1 2004. Special Part of the Internal Revenue Code of the Republic of Belarus was accepted by the Parliament of the Republic of Belarus on December,

29 2009 and entered into force by January, 1 2010. The Internal Revenue Code of the Republic of Belarus contains 9 divisions and 44 sectors that unite 331 interpretations. The norms of the General Part of the analyzable normative legal act determine public relations managed by the Internal Revenue Code, basic principles of taxation, participants of tax legal relationships, and also formulate the concept of tax obligation, a payer of tax, and object of taxation. General Part of the Internal Revenue Code of the Republic of Belarus also contains parts about methods of providing executions of tax obligations, fiscal accounting and control, the order of appeal against decisions of tax organs. Special Part of the Internal Revenue Code of the Republic of Belarus regulates separate types of taxes and collections (duties), determines their payers, objects of taxation, sets the rates of taxes and collections (duties), and the order of their calculation and payment.

The Internal Revenue Code of the Republic of Belarus contains both typical and untypical norms of law. Typical norms are legal rules being whole state-imperious dictates including in their structure a hypothesis, disposition and approval. The untypical norms of law determine bases of legal adjustment of public relations, their aims, tasks, principles, limits, directions, connected legal categories and concepts. Thus, for example, Article 21 of the Internal Revenue Code of the Republic of Belarus “The rights of payers” and Article 22 of the same normative legal act “The duties of payers” contain typical legal norms, and Article 4 of the Internal Revenue Code of the Republic of Belarus “Basic principles of taxation in the Republic of Belarus”, or Article 6 of the adopted Code “Taxes, collections (duties)” – untypical rules, namely: norms-principles and norms-definitions.

The Internal Revenue Code of the Republic of Belarus also contains imperative and non-mandatory norms providing rights, obligations and forbidding rules as well as norms of material and judicial law. Norms of material law are the rules which regulate maintenance of public relations. Norms of judicial law regulate the procedural and organizational questions of realization of material norms, permission of judicial conflicts, protection of rights and legal interests of legal relationships participants.

Code creation in tax law largely influences a legal status of individuals in a tax sphere, i.e. their tax legal status.

A tax legal status as a branch of legal status of individuals contains such elements as law principles, legal capacity and capability, the rights, duties and responsibilities of a taxpayer.

The presence of the Internal Revenue Code of the Republic of Belarus means that under the legal status of personality in a tax sphere, a modern legislative base is brought in the Republic of Belarus. Meaningfulness of кодификации of norms of tax law shows up in a number of aspects. On the one hand, maintenance of norms of the Internal Revenue Code of the Republic Belarus proves purging this sphere from ideological and class dogmatism, transition from the command-prohibitive methods of regulation of a legal position of personality to permit establish and pursue any initiative and enterprise of bureaucratic centralism to reasonable autonomy and independence. On the other hand, the norms of the Internal Revenue Code of the Republic of Belarus, as it appears, prove that human rights, dignity of personality, humanism, democracy, and justice began to take to the first place in adjusting mutual tax relations between man and the State protecting them even more. At least this ensues from Article 2 of the Internal Revenue Code of the Republic of Belarus which defines qualifying basic principles of taxation in the Republic of Belarus, namely: legality, generality and equality.

The conduct of individuals (people and citizens) in the Republic of Belarus in the field of public relations related to taxation is, first of all, determined by the norms of the Constitution of the Republic of Belarus, including duties set by Article 52 of the Constitution of the Republic of Belarus, the essence of which requires to the observance of the norms of the Constitution and laws and respect national traditions. Under Article 56 of the Basic Law of the Republic of Belarus, citizens of the Republic of Belarus are under an obligation to take part in financing government spending by state tax, duties and other payments⁵.

Concrete taxpayers' rights and duties are determined in particular in Articles 21 and 22 of the Internal Revenue Code of the Republic of Belarus. Thus, taxpayers have the right to get from tax organs at the place of keeping an account free information about operation of taxes, collections (duties) and acts of tax law, and also about the rights and duties of taxpayers, tax organs and their public servants, to get written explanations to questions of application of acts of tax law, to present the interests in tax organs

independently or through the representatives, to use tax deductions on the grounds and in order set by the tax law. A taxpayer is under an obligation to pay taxes collections (duties) set by the tax law, keep an account in a tax organ according to the terms and order set by the Internal Revenue Code, and register profit (charges) and other objects of taxation in accordance with the established procedure.

For non-fulfillment or improper implementation of the duties imposed on a taxpayer, they bear responsibility in accordance with legislative acts (part 5, Article 22 of the Internal Revenue Code of the Republic of Belarus).

Under part 3 of Article 21 of the Internal Revenue Code of the Republic of Belarus, the administrative and judicial protection of taxpayers' rights and legal interests is guaranteed in the order determined by the Internal Revenue Code and other acts of legislation. This norm has a substantial value for providing the rights and freedoms of individuals in a tax sphere. In accordance with part 1 of Article 86 of the Internal Revenue Code of the Republic of Belarus, decisions of tax organs and actions (inaction) of their public servants can be appealed to a higher tax organ or higher public servant. Envisaging the indicated rights, the Internal Revenue Code of the Republic of Belarus does not include many norms regulating these rights, it is limited to only 4 Articles. Thus, a direct procedure and terms of appeal are regulated by Article 87 of the Internal Revenue Code and questions of consideration of complaints are regulated by Article 88. On the one hand, it is clear that questions of appeals of decisions of tax organs, for example, in the judicial order, are also regulated by the Articles of the Civil Procedure Code of the Republic of Belarus and the Economic Procedure Code of the Republic of Belarus. On the other hand, the adopted legislative acts do not take into account a specific nature of tax legal relationships and carry a general character. And it, in turn, as appears, draws certain vagueness into the algorithm of actions of a legal subject whose rights and legal interests will be infringed when he appeals decisions of tax organs.

Tax law code creation did not solve all the problems of tax law and the practice of tax norms realization related to it. Thus, still, next problems remain currently unresolved. Firstly, there is a great number of normative legal acts which regulate tax legal relationships. Certainly, tax law cannot be equated with criminal law, that is actually limited only to one normative legal act – the Criminal

Code of the Republic of Belarus. At the same time, tax law continues to embrace a large number of legal acts, namely: the laws accepted in accordance with the Internal Revenue Tax Code of the Republic of Belarus, regulative questions of taxations, acts of President of the Republic of Belarus (decrees and orders), international agreements and other, hardly necessary to estimate as positive. From the point of view of individual agreements, it is hardly necessary to estimate them as positive. From the point of view of individuals, such state of affairs hampers the use of tax norms if, in general, they are possible to be used at all. In fact, without special knowledge, the abilities to understand this volume of legal rules, observing them is not so easy. Tax and other state organs of the Republic of Belarus frequently assume the knowledge of law when establishing facts of offences. That is why a situation when a subject who does not know legal rules commits tax misconducts is absolutely common practice. Secondly, as it appears, many parts of the Internal Revenue Code of the Republic of Belarus need explanation. This generates a requirement to cement the norms of the Internal Revenue Code. It will be correct if it is done by the authorized agents of public organs, although they do it reluctantly. Thus, it is necessary to take into account that the right to authentic interpretation of norms of the Internal Revenue Code of the Republic of Belarus belongs to the organ that accepted it – the Belarusian Parliament of the Republic of Belarus. The official legal applying interpretation of analyzable normative legal act is provided by the Constitutional Court of the Republic of Belarus. Indicated organs not often do it (if they do it in general). Accordingly, other subjects begin to comment on tax law, both professionals and amateurs. A result can again not make a law-abiding legal subject happy.

To decide on the questions in a tax sphere, the Internal Revenue Code Tax is not sufficient. Development of economic relations of the society is needed. But there are other questions. Economic reforms, a change of the principles on adjusting this sphere of public relations must also be done. One of the priorities of the Belarusian state is forming a stable order of economic relations and normal functioning of managing subjects. This will assist in increasing good behavior of subjects in a tax sphere. Tax payments will be gathered when the subjects obliged to pay them carry out a profitable economic activity.

The fourth issue to be solved is work performed by law applying organs in the indicated sphere. The practice of

this work proves that there are many defects in this area of public relations. Thus, violations of legal norms are taking place both from the side of law applying structures and from the side of the legal subjects obliged to observe the tax law. The amount of offences in a tax sphere is growing from year to year. Due to this, the tendency of increased tax crimes is a major problem in the Republic of Belarus. Thus, in the first quarter of 2015, the results provided for by the plan did not verify 806 cases of illegal entrepreneurial activity, that was twice more than in the analogical period last year. 763 offenders were brought to administrative court justice. The lump sum of fines made 1.5 milliard of Belarusian Rubles. 1256 natural persons got, of course, warnings of pursuing business without state registration. In all tax organs, an arrest was imposed on material values and profits to the amount of 25 milliard Rubles. 18.2 milliard Belarusian Rubles made up for the profit of the state⁶.

For the violation of tax law, the following measures of economic responsibility are set in Belarus, i.e. penalties applied to the subjects of management - legal entities and individual businessmen. For the violation of tax law, the Belarusian legislator also provided for the application of measures of disciplinary responsibility with regard to the leaders of legal entities and individual businessmen who can be subjected to administrative and уголовно-правовой responsibility. Уголовно-правовая responsibility is the most serious type of legal responsibility set by the legislation of the Republic of Belarus for the violation of tax law norms.

The necessity of perfection of the socially-legal mechanism of providing the rights and freedoms of individuals requires the Republic of Belarus to determine ways of further development of tax law of Belarus and practice of its application.

As it appears, the Republic of Belarus must take the following steps:

- the Tax law must be based on exceptionally legal principles of adjusting public relations and must be free of influence of other factors, first of all, political ones;
- systematic activity must be developed to achieve perfection of tax-legal norms;
- it is necessary to provide stability and sequence in tax practice. It could be made with the help of

debates assisted by the corresponding organs (for example, by the Supreme Court of the Republic of Belarus);

- development of a protective mechanism against tax tyranny assumed by law applying organs in a tax sphere is necessary;
- it is necessary to provide a process of education of taxpayers forming tax discipline and tax culture.

Abstract

Code creation is one of the directions taking place in the republics which were earlier included in the former Soviet Union State. Code creation is connected with legislation development. A code as an organic legal act has several advantages which make it an effective legal act. Developed legislation is one of the conditions of providing the rights and freedoms of individuals.

Legal adjusting of public relations is aimed at forming of such an order of public social connections in which state and social institutes are working effectively, the rights and freedoms of individuals are realized, their infringed rights and interests are defended. Legal adjusting is effected by means of rules of law that is systematized by certain methods. One of such methods is code creation. Code creation in the sphere of tax law is one of the backer-ups of the rights and individual freedoms in the state.

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COUNTRY BY COUNTRY REPORTING

Introduction

The necessity to secure a higher level of transparency in the area of international taxation places significant demands on Tax Authorities in individual countries as well as on multinational enterprises. With respect to the global financial crisis, the media and non-profit organisations started to point out the tax practices of big multinational companies, shifting the profits into countries with a lower tax burden. The reaction to such phenomenon was the Action Plan BEPS, put together by the OECD in cooperation with G20 countries. The Action Plan highlighted the value of transparency as one of the three fundamental pillars of the whole BEPS initiative, resulting in strengthening cross-border relations of Tax Authorities by implementing new legislation on transfer pricing documentation as well as by introducing country by country reporting instruments. These tools are established in point 13 of the Action Plan.

The objective of this paper is to explain and describe the instrument of Country by Country Reporting as well as to recall the potential practical impacts related to its implementation.

Point 13 of BEPS Action Plan

The release of the Action Plan in July 2013 clearly affirmed the fact that transfer pricing holds a substantial position. This matter is included in point 13 of the Action Plan

– Transfer Pricing Documentation, which together with the OECD Recommendations imposes significantly more serious requirements on multinational enterprises than ever before and provides Tax Authorities with a sufficient amount of information that enables them to assess the potential risk of base erosion and profit shifting.

This point was primarily formulated in order to secure the higher level of transparency which occurs as one of the fundamental pillars of the BEPS initiative. The focus on transparency inspired the OECD to create the framework for transfer pricing documentation which reflects the global business structures formed by multinational enterprises. In October 2015, the final set of OECD recommendations to BEPS Action Plan was released and contained the instructions for the transfer pricing documentation as well as the country by country reporting. The significance of this change can be seen in the fact that the overall Chapter V of the OECD Transfer Pricing Guideline was replaced by a version reflecting the new requirements for multinationals.¹

The main characteristic feature of the OECD Transfer Pricing Guideline update is the introduction of the three step approach towards transfer pricing documentation. The reason for such an attitude was predominantly the necessity to provide the tax authorities of the individual countries with an effective tool securing a sufficient amount of relevant information. In the view of the OECD, this will help the tax authorities to identify the BEPS risks

better. The three step approach presumes the following documents:

- master file;
- local file and
- country by country report.²

The master file contains the detailed information about the overall operations of the multinational group as well as the transfer pricing policy. Such information should enable the tax authorities to create a sufficiently comprehensive idea about the relations between individual entities within the group and help to interpret the information provided in the local file as well as in the country by country report. The master file is a key document of the transfer pricing documentation in respect that it focuses on the transfer prices setting in the group as well as on the allocation of revenues and economic activities.

The local file includes detailed information about relevant operational transactions between the affiliated parties specifying the amounts and the analysis of the transfer prices setting in these transactions. The master file together with the local file are submitted to the tax authority in the country where the company is registered with no reflection to the parent company residence.

Country by country reporting

The third feature of the transfer pricing documentation is the country by country report. The main objective of its introduction is to provide the tax authorities with sufficient and relevant information about the nature of the activities as well as the information about global allocation of the generated revenues and the tax amounts paid in the individual countries.³ The obligation to create and submit such a report applies to multinationals whose consolidated revenues exceed the limit of EUR 750 million. The up-to-date OECD Transfer Pricing Guideline determines the list of indicators that companies must provide in every jurisdiction where the group operates. The list contains the following indicators:

- revenues (split between the related and non-related entities);
- profit or loss before income tax;
- income tax paid;
- income tax accrued;
- stated capital;
- accumulated earnings;
- number of employees and
- tangible assets (other than cash and cash equivalents).⁴

The key issue for the OECD was to determine appropriate rules for the manipulation with the information provided in the report including the resolution in which country the country by country report will be submitted. Another set of issues was to formulate the principles of sharing the data with the other tax authorities.

Unlike the master file and the local file, which are submitted to the specific tax authority according to entity place of residence, the country by country report will be submitted annually by the parent company for the overall group in the country of residency of the parent company. Such a report will then be provided to the tax authorities in whose countries the multinational company runs some business activities and the process will be held in accordance with the principles of the automatic exchange of information.⁵

In order to secure even more efficient and consistent implementation of the automatic exchange of the country by country reports in between the individual jurisdictions, the Multilateral Competent Authority Agreement on the Exchange of Country by Country Reports – the so-called CbC MCAA was developed. Such agreement stems from article 6 of the Multilateral Convention on Mutual Administrative Assistance in Tax Matters as well as from the Common Reporting Standard (CRS). The CbC MCAA enables the tax authorities to automatically exchange country by country reports under a well-established legal framework and in line with clear rules on confidentiality. The CbC MCAA further stipulates that the information received by the tax authority in compliance with the

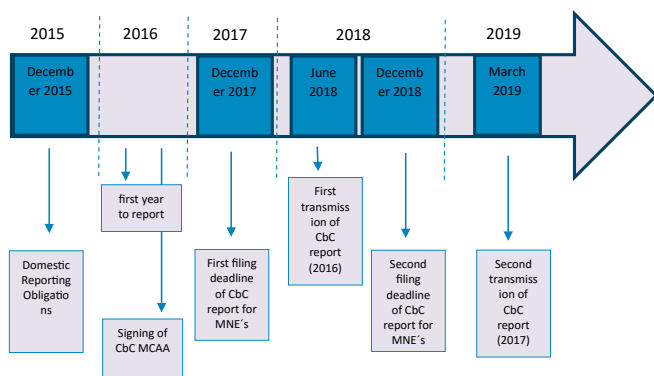
automatic exchange of country by country reports will only be used for conducting high level transfer pricing risk assessments, for evaluating the other BEPS risks and where appropriate for economic and statistical purposes. By no means will the information from country by country reports be used as a substitute for detailed transfer pricing analysis.⁶

The implementation and the further development of the country by country reporting

With regard to the fact that the final set of OECD recommendations to the BEPS Action Plan was approved by the G20 countries in November 2015, the member countries can focus on the local implementation of country by country legislative rules. It has been assumed so far that this instrument would be put into practice this year and that the first country by country report would be submitted in December 2017. The first practical use of such information would be in June 2018. At the same time the OECD is working on creating a platform for the electronic sharing of country by country reports.⁷

The figure below demonstrates the development and individual implementation stages of the country by country reporting.

Figure 1. Country by country reporting



Zdroj: A. Hickman, S. Abdelghani, P. Honduis, Action 13: Transfer pricing documentation and country by country reporting. Cit. [8.1.2016]. Available at: <http://www.internationaltaxreview.com/Article/3514685/>

Action-13-Transfer-pricing-documentation-and-country-by-country-reporting.html.

As can be seen in the figure above, the CbC MCAA was signed in January 2016, which enabled the individual countries to start development of the international legal framework for sharing the country by country report. Numerous countries have already started introducing and approving the new country by country legislation. Significant measures were taken in Australia, Ireland, the Netherlands and the United Kingdom.⁸

Potential practical impacts related to the country by country reporting

However, point 13 of the BEPS Action Plan, specifically the country by country reporting tool, generates serious potential risks as well as an administrative burden for the multinational enterprises. These companies argue that the administrative costs of country by country reporting are very high. Nevertheless, more concerning is the fact that the tax authorities will have access to more information than ever before and they will interpret the transactions as a way of tax evasion. Another potential issue stems from the concerns that the information provided will be abused. The country by country data will be available to several tax authorities simultaneously, which increases the risk of potential information leak.⁹

However, the OECD fighting those arguments with the introduction of a special platform for electronic sharing of country by country reports as well as by implementing the sanction mechanism. When the country fails to secure the confidentiality of the data provided, it can be excluded from data sharing by the other countries.¹⁰

Conclusions

Point 13 of the Action Plan introduced the so-called three step approach to the transfer pricing documentation. The multinational companies in master file and local file will provide the required information on transfer prices

setting, which enables the tax authorities to identify the potential risks of base erosion and profit shifting to the jurisdiction where it was not generated.

The multinational enterprises whose revenues exceed EUR 750 million have beside the master and local file the obligation to submit the country by country report, which contains the data that enable the tax authorities to gain a comprehensive idea about the business structures and the operational transactions between the entities. Such a report will be submitted by the parent company in the country of its residence for the overall multinational group. The tax authority of that specific country, holding the country by country report, will further share the report with the other tax authorities where the multinational company operates. The first country by country report will be submitted in December 2017 and will include the data for 2016. Therefore, in June 2018 the tax authorities should have access to the first set of data from country by country reports.

Abstract

The three pillar approach to transfer pricing documentation makes multinational enterprises obliged to provide in master file, local file and country by country report the consistent transfer pricing positions that enable tax authorities to assess whether companies have engaged in transfer pricing practices that have the effect of artificially shifting substantial amounts of income into a tax-advantaged environment. The main goal of this contribution is to clarify the tool of country by country reporting and mention the potential issues of its implementation process.

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THE ECONOMIC CONCEPT OF THE TAX CODE: INITIAL POSITION

Although recent years have brought about changes in tax relations in Russia, the imperfection of tax administration remains a serious problem, increasing the total tax burden on taxpayers. The global financial crisis has exacerbated the situation. The end of almost eight years of the budget surplus in Russia has evoked the need to find new sources of revenue and ensure completeness of tax payment¹.

Methodologically, the sequence of events plays a critical role in the development of tactics and strategy of any financial reform and restructuring. Incorporating only financial and legal methods, it is impossible to achieve the planned results. And it is difficult to object to V.G. Panskov that it is contrary to the Ministry of Finance of the Russian Federation and that the tax reform is far from complete in the first place because there is no economic concept, without which many rewritings of the Tax Code do not have much influence upon the final result².

In this regard, I would like to highlight a number of points that are very relevant when considering the improvement of the concept of the Tax Code.

1) A wide definition of meaningful tax, which includes all types of income accruing to the state on a regular basis with the help of law enforcement belonging to it³, requires the inclusion of taxes paid by a taxpayer in the Special Part of the Tax Code .

In connection with this very interesting approach, Lawyers of “Pepeliaev Group” seem to claim the same, i.e. that a situation with multiple payments is not embedded in the overall tax system, and a degree of certainty of the value

of the total burden (the severity of) imposing mandatory payments aimed at the implementation of public functions should be reduced. The actual severity of taxation is different than you might think based on the content of the Tax Code⁴.

2) Structuring the Tax Code in the aspect of the subjective rights of taxpayers as a ratio of the parties: the taxpayer and the receiver of taxes (state), the introduction of the principle of equivalence. Thus, taxation should be seen as a process which is binding on the participants: the taxpayer and the receiver of taxes (state), where the taxpayer seeks to reduce taxes and the state - prevent the reduction of income tax to the treasury.

Creating tax systems and, at the same time, providing the implementation of the state's functions and an increase of business activity of citizens, enterprises, municipalities and regions, have always been and will be the subject of a debate and a “battle” between different branches of the government and business. Thus, the problem of creating a tax system that provides balance, harmony, social justice and economic efficiency remains unsolved⁵.

3) The inclusion of a chapter or section of the potential tax burden (as a calculation of the average rate) in the business. This task is not implemented to date and potential business representatives do not have a real picture which would give a complete picture of the level of taxation of their business.

Fiscal burden in Russia - one of the highest in the world, is much higher than in most developed and developing

countries (about 50% of GDP according to the IMF methodology)⁶.

In the ranking of 2015, the tax burden in Russia amounted to 48.9% of the profits (including income tax - 8.4%, insurance premiums - 35.4%, other taxes - 5.1%)⁷. In this regard, a representative of any type of business often does not address the issue of options which is to reduce tax costs and minimize their tax burden on legitimate business level and this, in turn, leads to thinking about getting a tax benefit. Data findings provided by A.A. Yakovlev denote that the shady schemes of interaction of subjects of the Russian economy are its bad practice⁸.

Until now, the tax legislation has not provided a clear division of concepts to optimize tax payments and tax evasion, entailing a tax and criminal liability for illegal circumvention of taxes. The main reason for the increase of tax risks is related to the fact that previously developed tax optimization schemes have been considered quite often as illegal⁹.

4) Providing direct fulfillment of tax obligations of taxpayers excluding the tax agency¹⁰.

The tax legislation mixes the status of tax agents and taxpayers by giving them equal rights. Shortcomings of the current legislation on taxes and fees, generate much controversy in the theory of tax law and, consequently, affect the law enforcement practice¹¹.

The subject science has hardly studied the effect of the duties of a tax agent on their own financial and economic situation, have not analyzed the limits within which the subject can be bound to perform the functions to calculate, withhold and remit taxes, carrying risks of accrual of penalties and prosecutions as a taxpayer and by virtue of a tax agent status¹².

5) The inclusion of the concept of the Tax Code in indirect taxation section. This is a confirmation and delimitation of the concepts of "tax vehicle" and the taxpayer.

Both legislation and legal doctrine perceive it as a direct tax. Thus, the rights and legitimate interests of third parties, which are understood as true taxpayers in indirect taxation - consumer goods, works and services which are subject to turnover, have been totally abandoned by the legislator¹³.

Thus, there is a need to reform and restructure the Tax Code of the Russian Federation in view of the foregoing.

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SCIENTIFIC JOURNALS OF THE REPUBLIC OF BELARUS IN WHICH RESULTS OF SCIENTIFIC ACHIEVEMENTS OF LEGAL RESEARCHERS CAN BE PUBLISHED

In the Republic of Belarus the development of scientific and innovative researches is reflected in scientific journals in order to improve the quality of training of highly qualified scientific experts in accordance with the strategic directions to ensure a unified state policy in the field of state certification of scientific and pedagogical staff.

Instruction about the formation order of the list of scientific editions of the Republic of Belarus for the publication of dissertations research results was approved by the Decree of the Higher Attestation Commission of the Republic of Belarus of June 8, 2009 № 3 (as amended by the decree of the Higher Attestation Commission of Belarus of June 30, 2012 № 5).

This legal act establishes requirements for scientific publications in which the results of scientific research can be published. A periodical included in the list must meet the following requirements:

- before the publication will be released on the list, its release is carried out not less than one year preceding the date of submission of the necessary materials to the Higher Attestation Commission of the Republic of Belarus (hereinafter – HAC) for inclusion on the list of editions;
- in the edition scientific articles publish the results of research carried out in different organizations;

- in the edition scientific articles are published in not more than in three branches of science (three research areas);
- in the edition in which besides scientific articles are published other materials is allocated the rubric “scientific publications”;
- editorial board and editorial council of the edition is headed by a Doctor of Science. It is allowed to take the post of a chairman of the editorial board and editorial council by the Candidate of Science under the condition that the deputy of the chairman of the editorial board and the editorial council is the Doctor of Science;
- in the edition scientific articles must pass independent review of the Doctors or Candidates of science who are appointed by the editorial board, editorial council and the chief editor. Review submitted to the editorial board should disclose the relevance, importance and scientific-theoretical, methodological and practical value of the article, contain an assessment of presented scientific results and validity of the conclusions;
- scientific articles of the edition must publish information about the date of their admission to the editorial board and also about the place of work of their authors;
- published scientific articles are accompanied by annotation (summary) in one of the state languages

of the Republic of Belarus and in English, as well as comply with other requirements determined by HAC for publications on the subject of the dissertation in the form of scientific articles;

- the edition has a ISSN code (International Standard Serial Number) and conforms to the requirements defined by the second part of this paragraph;
- circulation of the edition is not less than 100 copies;
- mandatory free copies of publications distributed in order established by the Regulation for the compulsory free copies of the documents approved by the Resolution of the Council of Ministers of September 3, 2008 № 1284 (National Register of Legal Acts of the Republic of Belarus, 2008, № 222, 5/28290);
- the edition is included in the catalog for subscription to the print media in accordance with the Rules of accepting a subscription to the print media and its delivery, adopted by the Resolution of the Ministry of Communications and Informatization of the Republic of Belarus of 17 September 2007 № 32 (National Register of Legal Acts of the Republic of Belarus, 2007, number 239, 8/17153);
- if the publication is not included in the catalog, it must be distributed by email of registry, which is approved by the editorial board or editorial publishing council.

At the same time control is exercised over the quality of scientific publications.

For this purpose Higher Certification Commission at least once half a year carries out review of the list and makes changes and additions where they are necessary. The grounds for exclusion of scientific publications from the list or exclusion of certain branches of science (scientific areas) in accordance with which this publication is on the list, serve a cessation of its release, nonfulfillment of requirements of paragraph 4 of the Instruction or the conclusion of the expert council of the Higher Certification Commission about unsatisfactory review published in its articles about its low academic values.

A scientific article must be written at a high scientific level and comply with the following.

A scientific article is a complete and logical product devoted to a particular matter within the range of problems (tasks) that can be solved by the applicant of a scientific degree in the performance of the research. The scientific article discloses the most significant results obtained by the applicant of the degree requiring detailed exposition and argumentation. The scope of scientific articles should

be at least 0.35 author's sheet (14 000 printed characters, including spaces between words, punctuation, numbers, etc.), if it is permitted by the rules established for the authors by the respective publications.

Scientific articles published in periodicals included on the list of scientific editions of the Republic of Belarus include (unless otherwise specified by the rules which are laid down for the authors of the respective printed edition) the following elements: annotation; surname and initials of the author (authors) of the article, the title of the article; introduction; the main part, including graphics and other illustrative materials (if any); conclusion, clearly formulated conclusions; a list of cited sources; the date of the receipt of the article in the editorial board printed edition. Additionally, in accordance with the requirements of the editorial boards of scientific publications in the structure of the article may also be included: the list of accepted symbols and abbreviations; annotation in English and (or) any other foreign language. The title of the article should reflect the basic idea of the research, be brief and contain keywords. The annotation should clearly expound the content of the article and be suitable for publication in the annotations to the journals separately from the article. In the introduction there is a brief review of the literature on the given problem, previously indicated unresolved issues, formed and justified purpose of the work and, if it is necessary, it should indicate its connection with important scientific and practical directions. Analysis of the sources used in the preparation of the scientific article should indicate knowledge of the author (authors) of the scientific advances in the field. Mandatory are references to the work of other authors, including foreign publications in this area (if any). In assessing the fulfillment of requirements for publication of the researches results of a dissertation are taken into account: Articles published in the periodicals of the Republic of Belarus included on the list scientific publications of the Republic of Belarus for release of the researches results of dissertations (hereinafter the List).

The results of the rating of scientific publications included on the List of Higher Certification Commission look as follows:

1. Bulletin of the Constitutional Court of the Republic of Belarus.
2. Vestnik BSU. Series 3: History. Economics. Law.
3. The Justice of Belarus.
4. Vesnik of Court.
5. Bulletin of the Academy of the Interior Ministry.
6. Law and Order.

7. Pravo.by.
8. Law and Democracy.
9. Issues of criminology, criminalistics and forensic expertise.
10. Proceeding of the National Academy of Sciences of Belarus. Humanitarian series.
11. Research Papers of the Academy of Public Administration under the aegis of the President of the Republic of Belarus.
12. Proceedings of the National Security Institute of the Republic of Belarus.
13. Vesnik of Yanka Kupala State University of Grodno. Series 4. Jurisprudence .
14. Doklady of the National Academy of Sciences of Belarus.
15. The problems of strengthening the rule of law: Science, Practice, Trends.
16. Vesnik of Belarus State Economic University.
17. Industrial and commercial law.
18. Journal of International Law and International Relations.
19. Law in Modern Belarusian Society.
20. Proceedings of the Belarusian State Economic University.
21. Economy, law and management problems.
22. Proceedings of the Faculty of International Relations.
23. The Brest University Journal. The Series of Humanities and Social Sciences.
24. Problems of management. Series B (philosophical sciences, jurisprudence, political science).
25. Work. Unions. Society.
26. Socio-economic and legal researches.
27. Belarusian Historical Review.
28. Intellectual Property in Belarus.
29. Actual problems of international public and private international law.
30. Actual problems of science of the XXI century: a collection of scientific papers of young scientists.
31. Vestnik MDU named A.A. Kuliashova. Series D. Economics, Sociology, Law.
32. Proceedings of the Gomel State University named Skaryna. Socio-economic and social sciences.
33. Journal of the Polotsk State University. Series D. Economic and jurisprudence.
34. Bar.GU. Herald Series "Historical sciences and archeology. Economics. Jurisprudence ".

For example, we give a brief description of selected journals:

Scientific and practical journal **"Pravo.by"**

In the journal articles are published by leading scientists, practitioners, teachers, graduate students, undergraduates and they highlight current issues of theory and practice of legal activity. The journal is included on the List of scientific editions of the Republic of Belarus by the Higher Certification Commission for the publication of the results of dissertation research in legal sciences. Since 2014 the journal has been included in scientometric database "Russian Science Citation Index" (RSCI), which has about a million registered readers from countries all over the world. Scientific articles are placed in the RSCI due to the number of the article uses, which improves the ranking of scientific citing authors and their materials.

"Vesnik of Yanka Kupala State University **of Grodno. Series 4. Jurisprudence"**

For Authors:

Articles acceptance procedure

1. Authors of the articles are postgraduate students, lecturers, research fellows, people working for a degree of doctor, working or studying at institutions of higher education of the Republic of Belarus and abroad. In other cases, the decision about articles acceptance is made by the editorial board.
2. People without a scientific degree should present an extract from the department meeting minutes with the recommendation for publication. In postgraduates' extract the year of studying must be indicated.
3. Editorial board has the right to ask for the extract from the department meeting minutes containing the recommendation for publication if it is necessary.
4. The author may bring the article with all application documents to the editorial office personally, or send it by post as a usual letter (foreign authors (neighboring and distant foreign countries) are allowed to e-mail all the materials: vesnik@grsu.by).
5. The articles sent to the journals' editorial board are reviewed by the editor-in-chief, executive editor and executive secretary in two-week term to check if the articles correspond to the journal's profile and meets preparation demands and are registered afterwards in accordance with the procedure. (The

materials, rejected in the reviewing procedure are not returned to the authors).

6. Editorial board does not accept articles published previously in other journals and scientific editions.
7. Publication is free.
8. Royalties are not paid out.
9. Manuscripts and materials in electronic form are not returned to the authors.

Guidelines for Authors

The manuscript includes the following items:

1. UDC (Universal Decimal Classification) index. Font Times New Roman 10 pt, capital letters, left alignment.
2. Initials and author (authors) second name(s). Font size 10 pt, centre alignment in small letters.
3. The title of the publication (font size 12 pt in small letters centre alignment) should reflect the main idea of the research carried out, be concise and contain the keywords, which help to index the article.
4. Summary in Russian contains 200–250 words (font size 9 pt). The summary besides a brief content of the article should reflect **the aim of the scientific work, scientific novelty and application sphere**. Summary should also contain a list of keywords. Keywords (5–9) should be presented in Nominative case, typed in small letters in a line with commas between them.

For scientific articles of postgraduate students we also recommend to attach an annotation in the language of the material published, volume 100–150 words (font size 9 pt, width alignment), according to the Higher Attestation Commission (HAC, Russian: BAK, Latin: VAK) requirements.

5. The main body should be structured according to the Higher Attestation Commission requirements for scientific articles, published in editions included in the List of scientific editions for thesis research results publishing: **introduction**, containing a short review of literature on this issue, a circle of problems not solved before; **the main part** with detailed coverage of questions discussed; **the conclusion** should contain brief results obtained.
6. List of accepted signs and the abbreviations (if any). Font size 10 pt, in small letters, width alignment.
7. List of references (cited literature) is given at the end of the article. It is to correspond to the requirements of GOST 7.1-2003 and Decree of Higher Attestation Commission 15 August 2007: font size 9 pt, width alignment. References to unpublished

works are forbidden. References to the cited literature are numbered in the sequence of their appearance in the text in square brackets, ex.: [1, p. 32], [2, p. 52–53].

Biography samples are given on the web site <http://www.vesnik.grsu.by/?p=autor&lang=en>.

8. Summary in English contains 200–250 words (with keywords) (font size 9 pt).

Requirements for the page layout

1. Font 10 pt., width alignment, with the author's marking the necessary parts of the text using software fonts «Bold», «Italic». The whole text is typed using font «Times New Roman». Single line spacing.
2. Page parameters: size A4; margins: left and top 25 mm, right and bottom – 20 mm, page numbers at the top of the page beginning with the second page, right alignment. Indentation – 12 mm
3. It is not allowed to use two and more symbols «space» in succession, also indentations, spaces between a word and a symbol «full stop», «comma», «inverted comma», «bracket». In typing texts should be used double angle brackets («»), in typing English-language texts should be used universal quotation mark ("").
4. All values and simple formulas in the text and tables should be typed as text elements but not as objects of use of the formula editor. Complex formulas are typed using application MathType (size 10 pt). Formulae shouldn't exceed 120 mm in width. While carrying over a part of a formula to the following line the mathematical sign should be repeated at the beginning of the following line. Drawings should be made in a vector CorelDRAW or Photoshop. Illustrations (B&W) should be clear and of good quality (resolution of the originals – 300 dpi). Print signs and labels under illustrations – Times New Roman, non-fat, 9 pt. The maximum illustrations width should not exceed 170 mm, maximum height – 220 mm (with captions). All tables, charts and diagrams should be embedded in the text and have a connection (to be available for editing) with the program source code, in which they were created (Excel, Corel Draw). Quality of illustrations correspond to the quality of original illustrations that are given to the editorial office.
5. Tables (if any). Font size 9 pt, table name lower case letters, 10 pt, width alignment; table size in width shouldn't exceed 140 mm.

- The use of automatic end and footnotes is not allowed.

General requirements for the article

- Manuscripts should be submitted in paper having not fewer than 14 000 printing symbols in 2 copies and in electronic form in editor MS Word. The articles are published in Belarusian and Russian. The articles are accepted also in Polish, English and German (published in original).
- The manuscript of the article must be signed by its author (all authors).** It should also contain his agreement for publishing the article in open access on the Internet.
- The following information should be attached to the manuscript on a separate sheet of paper: author's surname, name and family name in full (in Belarusian, Russian and transliteration in the Roman alphabet (Latin): like in passport); scientific degree, post, place of work, e-mail, address for correspondence, phone number (everything in Russian and English).
- Postgraduate students should also indicate surname, name, family name, scientific degree, academic status and place of work of their research advisor (everything in Russian and English; surname, name - transliteration in the Roman alphabet (Latin)).
- There should be attached another summary both in Russian and English on a separate sheet of paper according to the following scheme: UDC, surname, initials of the author, title of the publication, keywords, summary (for control editing of English summary). The authors may also point out scientific speciality (specialities) the theme of the article refers to.
- Authors bear the responsibility for bringing previously published articles, or articles accepted to be printed in other editions. According to the Law of Publishing authors bear the responsibility for choice and reliability of the given facts, citations, economic and statistic data, proper names (including geographical names) and other encyclopedic information. The Editorial Board has the right to edit the manuscript and abridge it without misrepresenting the paper contents.
- It is not allowed to make edits and changes in the finished artwork. In case such changes are made

the reimposition is made at the author's expense. «Creative» texts' shifts such as texts' replacements, equivalent replacements, full or partial deletion, etc. in the finished artwork are not allowed.

- Editorial board has the right to change the rules of registration, reviewing, approval (refusal) of the materials received by the editorial board of the scientific (trade) journals «Vesnik of Yanka Kupala State University of Grodno» on the basis of the instructions of Higher Attestation Commission or decisions of editorial boards of journals.

Bibliography samples	
Resource	Sample
One, two, or three authors	Azar, B.S. Fundamentals of English grammar / B.S. Azar. - Second Edition. - New Jersey: Prentice Hall Regents, 1992. - 398 p. Azar, B.S. Basic English grammar; teacher guide / B.S. Azar, B.F. Matthies, S. Harte. - Second Edition. - New Jersey: Prentice Hall Regents, 1997. - 184p.
Four and more authors	A University Grammar of English / R, Quirk and others / redactor I.P. Verkhovskaya. - M.: Vysshaja Shkola, 1982. - 391 p.
Electronic resources	Britannica 2008 Ultimate Reference Suite [Electronic Resource]: encyclopedia. - M. : New Disc 2007.
Internet resources	Proceeding of mini-symposium on biological nomenclature in the 21st centry [Electronic resource] / Ed. J.L. Reveal. - College Park M.D., 1996. - Mode of access: http://www.inform.ind.edu/PBIO/brum.html . - Date of access: 14.09.2005.

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- <http://vak.org.by/index.php?go=Pages&in=view&id=153>.
- <http://csl.bas-net.by/anews1.asp?id=21207>.
- <http://plib.unibel.by>.
- <http://www.justbel.info>.
- <http://vesnik.grsu.by>.
- <http://www.bseu.by/russian/scientific/herald.htm>
- <http://www.bsuy.ru/main.aspx?guid=184131>.

PRINCIPLES AND PROBLEMS OF EVALUATION AND POPULARISATION OF SCIENTIFIC PUBLICATIONS IN SLOVAKIA

The publications of scientific and pedagogical staff of universities are an important part of the evaluation of their performance in the field of scientific and professional activity, which would be reflected also in the pedagogical process. Publication activity reflects achieved work and its primary function is to acquaint a scientific community with results of research activities. Important communication channels are scientific and professional periodicals within the publications in a scientific academia. The publications are evaluated using qualitative, as well as quantitative methods. These quantitative methods and ways of evaluation of publications are mainly used when projects or grant applications are submitted, as well as at accreditations or qualification procedures of academics. On the other hand, it would be more important to examine the quality of results of academics in relation to the society and in relation to the improvement of the position of science as such.

The evaluation of the quality of individual periodicals is performed by several tools, or more precisely, by database products. These include products such as Thomson Reuters (Journal Citation Reports, Current Contents Connect, Web of Science) or the database SCOPUS from the Elsevier company. These databases are especially aimed at publications in English and it is necessary to note that these databases are not focusing on jurisprudence. And what is more, in Slovakia, there is no adequate tool serving to evaluate periodicals, through which articles published in domestic journals in the Slovak language could be evaluated. This is very decisive for law, which has a national character.

Scientific and professional periodic publications

The basis of the database of Slovak scientific and professional journals should be current periodic publications. Periodic publications are regularly issued publications of the same name, which are characterized by the complexity of the edition and by the continuity with previous and subsequent editions. It should be noted that at present in Slovakia there is no scientific journal in the field of law in which individual scientific outcomes could be published. This is often replaced by publishing either in Czech journal called *Právník* or in the sporadically published journal *Právny obzor*, which really does not help jurisprudence. We consider that the area of tax law is in the specific situation and it is so for several reasons. Tax law as a separate branch of law is lectured and studied in Slovakia only at the Faculty of Law of UPJŠ. Others faculties of law lecture tax law within financial law and within grossly undersized credit subsidies, and this fact has a significant impact on the possibility of publishing in scientific journals.

On faculties of economic, respectively at universities where tax law is perceived under the category of economics, tax law has a slightly better position. In accordance with this, legal community cannot be satisfied and certainly we would make an effort to change this situation. The system of publishing journals, in which scientific results are presented, is very useful to economic sciences in Slovakia as well. As it was mentioned, in Slovakia there are no current journals in the area of jurisprudence, by which the scientific community of lawyers is truly impoverished. In the area of economics and management there is a relatively limited set of several hundred journals, in which the global leader in the field of quality assessing and indexing, Thomson Reuters, has ranked on its list of Current Contents Connect. *Ekonomický časopis* published by the SAV

is among them in Slovakia, and in the Czech Republic, these areas are represented by journals *Politická ekonómie* and *Finance a úver*. This fact shows that it is necessary to do everything possible so that jurisprudence would have the journal that would be classified as current. Meanwhile, all efforts for the inclusion of such periodical were without results, mainly on the level of academics, since it is also a financial evaluation and it is generally known that universities and academia do not know how to influence this fact.

Whereas the list of current journals is very limited, it began to use the term “impacts” several years ago. This term refers to journals which are not current but which are included in other broader product of Thomson Reuters, which is called the Web of Science or in a competitive product, the Scopus. One Slovak peculiarity was removed by this (orientation only on “currents” was our regional speciality), on the other hand there was established the new one (in most of the world the Web of Science is only measure of the quality, not the Scopus). The aforementioned has significantly affected the possibility of publishing some scientific researches in the field of law. Again, it should be noted that economic sciences and the community of economics, which deals with taxes, reacted very quickly and have a tendency to rank among the recognized journals. It was noted that there are also efforts to predate publishing researches involving the area of taxes. While the Web of Science database is, with some exceptions, managed to maintain the quality, the Scopus contains a lot of journals for which the publishing is the only business. Practically anything is published in these journals, especially when the author pays and in this way should certainly not lead any scientific outcomes. It is important to mention, that these studies should not be accepted by the scientific community, though it is very complicated and may be even barely influenced.

From the point of view of information value of articles, there are different approaches to papers published in scientific periodical publications and to papers published in professional periodical publications. Articles with scientific nature are considered to be more significant due to the fact that they present new results of scientific researches. Scientific journals are periodical publications composed mainly of scientific articles presenting the newest, previously unpublished results of scientific research. Scientific papers published in scientific journals can be characterized as papers publicizing authentic thus original results of the author's own work. A scientific article as an essential element of scientific journals presents a scientific and educational unit, in which a written form reflects the new and original results of the scientific research.

Professional works represent the articles in professional journals that do not have scientific and exploratory character. However, the articles in these journals are characterized by high degree of professional processing of the issue by qualified author. The nonfiction style is used in these articles, by which verified professional and scientific knowledge is presented to the general public in an appropriate way.

One of the biggest distinction between a scientific journal and a professional journal is the type of information in the journal and the user perspective of a destination. Scientific information is characterized by originality and scientific character and professional information is defined by verifiability, applicability and intelligibility. Scientific articles, as a part of specific scientific discipline, are primarily intended to the scientific community. Published specific issues, the latest results of research, unpublished scientific information as yet, the use of scientific and educational style and exact terminology, all these reasons delimit the group of readers to a small community of scientists and specialists in the field. Unlike scientific articles, professional articles are written in more understandable style which is closer to the general public. It could be said that through the professional articles and journals scientific information and results of scientific research is mediated to the general public. In this context, we can deduce that in tax law, and of its enforcement, more often is used professional publication than scientific publication, especially from the known reasons of applicability of this information.

Scientific and professional journals are an irreplaceable informative channel not only in the scientific communication. Their common, scientific and professional value is reflected in the application of knowledge from these sources, not only in the future scientific research, but also in the ordinary life of their users. The very creation of the separate database of scientific and professional periodicals from the areas of law would bring several positives. From the international point of view, the aforementioned would be the mirror of the scientific and professional publishing in Slovakia.

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SCIENTIFIC PUBLICATIONS AS AN ELEMENT OF EVALUATION OF SCIENTIFIC OUTPUT IN POLAND

Introduction

The evaluation of scientific output of people who conduct such research activity can be made according to different criteria and in different dimensions in the Polish legal system. Most importantly, it needs to be indicated that there are distinct evaluation rules for individual research activity conducted for promotion (Ph.D., postdoctoral titles, professorships), for competitions connected with gaining finances for research projects or for assessing institutions employing such people (categorisation and parametrisation of research institutes). In the first case, detailed rules of evaluation made for academic degrees and titles are regulated by the act of 14 March 2003 on academic degrees and academic title and degrees and title in art.¹ On the other hand, the evaluation of research institutes is made based on the criteria specified both in the act of 30 April 2010 on the principle of financing science², as well as in the executive orders to the act.³ Other regulations are binding in evaluation of people who apply for grants for research projects. In majority they are granted through competitions by National Science Centre operating on the basis of the act of 30 April 2010 on the National Science Centre⁴. Besides evaluation criteria of applications connected with the quality of financed research also scientific achievements of the applicants are included and are assessed through scientific publications.

Common denominator connecting the above mentioned evaluation spheres of research activity is scientific publication. However, it should be emphasised that in Poland

there are no unified rules assessing the value of such publication. Basic significance have, arising from the act on principle on financing science and therefore assumed for the needs of categorisation and parametrisation of research units, point system for journals and other categories of papers, including monographies. In the case of promotions, this system is not applied to the evaluation of research output. Secondary legislation to the above mentioned act on academic degrees and academic title for the evaluation of publication output in the field of social sciences which includes legal science uses in the first place the criterion of placing publications in databases of journals such as Journal Citation Reports (JCR) or on the list of European Reference Index for Humanities (ERIH) and then on the list of scored journals published by the Ministry of Science and Higher Education.

It is not the aim of this paper to analyse specific rules evaluating publishing output which are binding in Poland. It does not seem purposeful especially that throughout recent years these rules have evolved and will still be changing. It seems justified to indicate some basic mechanisms which are characteristic for the applied evaluation rules of scientific papers in Poland, what will allow to relate them to regulations binding in other countries. Moreover, in the final part of this elaboration, there will be an attempt to indicate areas in which the activity of the Information and Research Centre of the Public Finance and Tax Law of Central and Eastern European Countries⁵ may contribute to increase the quality of scientific papers and their significance in the context of scientific output.

What is a scientific publication?

In the Polish legal system there is no act which would define what a scientific publication is. Particular legal regulations, indicated in the introduction, use such notions as: work, publication, joint publication, monography, research paper. Generally, it may be stated that in the analysed scope of key importance are the following: publication, research paper and scientific monography. They are used in the binding Regulation of the Minister of Science and Higher Education of 13 July 2012 on criteria and procedure for awarding scientific category to research institutes⁶. Nevertheless, it is symptomatic that this act only defines what monography is. However, in the case of publication, in the meaning it uses, it is only limited to research papers. The definition of such a paper is included in the act which is not commonly binding – the Statement of the Minister of Science and Higher Education of 2 June 2015 on criteria and procedure of research journals evaluation. What is more it was placed in the annotation No 2 (sic!) and not in the content of the Statement. To verify the evaluation criteria of scientific journals the Statement defines a research paper as a paper presenting research results of empirical, theoretic, technical or analytical character containing publication title, authors' surnames and names and presenting current knowledge state, research methodology, the course of the research process, its results and conclusions with cited literature (bibliography). Research papers also include elaborations published in scientific journals of monographic, polemical or review character as well as legal opinions and comments.

From the legal science perspective it is significant that a research paper is also such an elaboration which has monographic, polemical or review character as well as legal opinions and comments. Having in mind the fact that in the Statement was indicated that elaborations also constitute a type of a research paper, it seems that they do not have to fulfil all the above indicated features. In particular in the case of legal opinions or comments they would not in many cases present any research results.

Only as of 1 January 2017 in the new Regulation of the Minister of Science and Higher Education of 27 October 2015 on criteria and procedure for awarding scientific category to research institutes the notion of scientific publication will appear and it will generally be identical with the notion of research paper included in the Statement presented above.

The above Regulation of 2012 also includes the definition of a scientific monography which may be classified to research and creative achievements of the evaluated research institute. It is comprised of editions of source materials, lexicographies, atlases and multi-faceted maps, translations of foreign publications with editorial elaborations, subject encyclopaedias and lexicons, legal textbooks, critical elaborations of literary works, biography and bibliography dictionaries, bibliographies, catalogues of monuments and in the group of humanities and social sciences as well as fine arts and creative activity also research elaborations containing subject coherent papers presented on conferences if they fulfil the following conditions:

- a) they form a subject coherent and reviewed research elaborations,
- b) contain research bibliography,
- c) have at least 6 publisher's sheets,
- d) are published as books or separate volumes,
- e) present particular issue in original and creative way.

It should be emphasised that in the context of categorisation and parametric evaluation of research institutes e.g. textbooks and academic course books are not classified as research achievement (research papers and monographies). In the Polish legal system such elaborations are not essential during evaluation of research units.

What are the evaluation criteria for scientific publications binding in Poland?

For the needs of categorisation and parametric evaluation of research institutes in Poland a point system was adopted. In relation to research and creative achievements of a unit it mainly comes down to grade points of publications in scientific journals and monographies. **Thus point system of scientific publications was in Poland created exclusively for the need to evaluate research institutes and not research employees.** In particular, it should be emphasised that in promotions it is not required to indicate the total number of points which correspond to publication output of a future associate professor or professor. In relation to postdoctoral procedures defined in the Regulation of the Minister of Science and Higher Education of 1 September 2011 on evaluation criteria of achievements of people applying for the title of assistant professor⁷ the evaluation criteria in respect of scientific publications are based on authorship or co-authorship of publications in journals from the database of Journal Citation Reports

(JCR) or on the list of European Reference Index for the Humanities (ERIH) but also others. Furthermore, the following parameters are taken into account: total Impact Factor (IF) of scientific publications according to list of the Journal Citation Reports (JCR) in accordance with the publishing year; the number of publication citations according to the Web of Science database; Hirsch index of published publications according to the Web of Science database. It should be stated that these criteria are more objective than only the number of points which are obtained for a publication. Point system of research and creative achievements adopted for the needs of research institutes evaluation may lead to pathology which consists in evaluating the quality of publications not through their real quality but through the number of points which has a journal publishing a given publication. In this context, in Poland the points for publication are important – it is in reality the measure of the publication value. It is not the substantive quality of the text, text citation or the influence in the scientific circles but the points which only in limited scope may reflect the research value of the publication. It is not surprising that recently the number of graded journals, which sometimes have only almost scientific character⁸ has peaked. According to the state as of January 2015, there were 2,200 Polish scientific journals, whose editorial offices were on the territory of Poland.⁹ This generally corresponds to the data arising from the last Statement of the Minister of Science and Higher Education of 18 December 2015 on list of scientific journals with the number of points granted for publications. List B comprising an attachment to this Statement has 2,212 items and contains scientific journals other than having Impact Factor and being in the JCR database or on the ERIH list.

It needs to be emphasised that Polish system of scientific journals evaluation has evolved in the recent years and currently new rules are being developed. So far this system has mainly been based (journals from list B) on formal and not substantive criteria.

The criteria and procedure of scientific journals evaluation are announced by the Minister of Science and Higher Education, accordingly to the Regulation of the Minister of Science and Higher Education on criteria and procedures for awarding scientific category to research institutes. **In practice, ministerial journals evaluation team has the influence on the rules grading journals and the way the list of scored journals is created.** However, the

above mentioned Regulation indicated the frame criteria for journals evaluation, which are the following:

- 1) type of journal,
- 2) procedures applied to classify publications to print,
- 3) influence range of the journal (domestic or international),
- 4) the level of internationalisation of the journal formulated on the basis of:
 - a) the percentage share of foreign reviewers in the total number of reviewers commenting publications,
 - b) the language of publications,
 - c) the percentage share of foreign members in the scientific council of the journal,
 - d) the percentage share of affiliate publications in foreign scientific centres in relation to the total number of publications,
- 5) journal indexation in recognised bibliographic databases.

Specifying indicated evaluation standards takes place in the Statements of the Minister of Science and Higher Education which content is created with the participation of the journal evaluation team (the last Statement is of 2 June 2015). Having in mind these criteria, the Minister announces, not rarely than once a year, the list of scientific journals with the number of points granted for publications in these journals. This list consists of three parts:

- 1) part A – containing the number of points for publications in scientific journals with IF in JCR database,
- 2) part B – containing the number of points for publications in scientific journals without IF,
- 3) part C – containing the number of points for publications in scientific journals in ERIH database.

The only deviation from the rule according to which are awarded only publications in journals included in the list are reviewed publications with the size of at least 0.5 publisher's sheet in the language basic for the given scientific discipline or in the following languages: English, German, French, Spanish, Russian or Italian, placed in a foreign scientific journal not included on the list of scientific journals. It should be added that in the Regulation which will be binding from 2017 there is no finite list of languages in which such a publication should be written, it is simply enough that it is not Polish and the journal is foreign. Also there is no requirement concerning the size of publication.

It results from the above considerations that the evaluation of scientific publications in Poland is mainly based on the criteria of:

- a) having Impact Factor,
- b) indexation in *Journal Citation Reports* (JCR) or *European Reference Index for the Humanities* (ERIH) databases; however, it should be emphasised that in 2014 ERIH was officially transferred to Norway (*Norwegian Social Science Data Services*) and was transformed into ERIH Plus. Since ERIH Plus is a regular reference database to which particular titles are entered, its application is questioned when comes to evaluation of journals from list C and it is considered to be replaced with ERIH SCOPUS¹⁰ database in the future;
- c) in the case of other journals than fulfilling the criteria mentioned in a) and b), detailed criteria are specified in the Minister's Statement.

The biggest amount of points obtain journals from list A - in the range between 15-50 points. Score for journals from list C is between 10-25 and journals from list B may get up to 15 points. As it was indicated, the evaluation of journals from lists A and C is based on their indexation in the databases mentioned above. For this reason, these lists are in fact a reflection of the JCR and ERIH databases contents. It results not only in a great number of journals which are included (list A – 11,114 scientific journals and list C – 4,111) but also in their international character. List B contains only domestic journals, whose publishers operate according to the act of 26 January 1984 – Press Law¹¹, but on lists A and C there are very few such journals. It needs to be stressed that the rules of making journals lists presume that in the case of lists A and C there is automatic journals transfer from JCR and ERIH databases. Whereas in the case of list B editorial offices file applications through the Internet site <https://pbn.nauka.gov.pl>.

The rules of creating the lists of scientific journals indicated above lead to a conclusion that generally taken into consideration the score scale which is assigned to particular lists, the biggest value have publications from list A, then list C and finally list B which basically have domestic area of impact and are published only in Polish with abstracts in conference languages. However, it should be emphasised that from the point of view of Polish researchers it is much easier to publish in journals from list B than in those from lists A or C. **Nevertheless, this should not demotivate from trying to publish in journals from lists**

A or C. In particular, during promotions publications with IF or on the ERIH list are significant.

As it was mentioned above, although the rules of creating A and C lists of scientific journals are specified in the Statement on criteria and procedures for scientific journals evaluation, in fact they should come down to standards which are determined by units responsible for JCR and ERIH databases. Entering a journal to one of these databases, after fulfilling additional criteria from the Statement, enables assigning a proper number of points to a given journal. In particular, in the case of journals from list A by evaluation only those which have calculated 5-year or 2-year IF are included. Interestingly, in list C are taken into account only journals from ERIH list which currently does not exist because it was taken over by ERIH Plus list. However, according to the Statement, journals entered into the database as a result of initiating ERIH Plus are not included by making list C. Quite simply, currently there is no possibility to introduce a journal into ERIH list and consequently into list C of scored journals. This list is filled with titles which were included by ERIH database before it was absorbed by ERIH Plus. The score of journals from ERIH database is mainly based on Scimago Impact Factor 2 ratio calculated as a quotient of Total Cites (3 years) and Citable Docs. (3 years) factors published in Scimago Journal &Country Rank database.

The Statement defines in details the evaluation rules of journals from list B (domestic). They are based on applications filled by editorial offices and because there are over 2,200 journals on this list it is difficult to assume they are honestly verified in terms of content. In fact, the verification is only formal. On the basis of e-questionnaires the evaluation has three-stage procedure. In the first stage the evaluation is based on the following criteria:

- a) providing the list of reviewers,
- b) applying specific reviewing procedure,
- c) having active and current Internet website,
- d) outside reviewers should make at least 50% of all reviewers,
- e) every research paper published 2 years before the year of filling the application form should have at least the title and abstract in English,
- f) publishing stability (lack of delays longer than 6 months).

Journals which fulfil at least 5 out of 6 criteria indicated above are allowed to the second stage of evaluation. To set points for publications the following parameters are used:

- a) journal citation based on the databases of the Web of Science and Scimago Journal & Country Rank,
- b) foreign affiliation of publication authors,
- c) indexation in databases stated in the attachment No 2 to the Statement,
- d) the number of research papers published in the year preceding the application,
- e) internationalisation of reviewers,
- f) frequency of publishing,
- g) language of publication,
- h) internationalisation of academic council,
- i) having on-line version,
- j) journal publishing period,
- k) entering full bibliographic records for the period of two or six years to POL-index database.¹²

Detailed impact rules of particular parameters for points granted to a given journal are defined in the tables provided in the Statement for each group of scientific disciplines. In the scope of social sciences which include legal science the journal evaluation parameters are as follows.

Table 1. Scientific journal evaluation parameters in the social sciences group

No	Evaluation parameter	Value measure	Threshold	score
1.	Journal citation	number (place in PIF or SIF ranking)	PIF or SIF – 0 or journal is classified on a place between 50%-100% > of the number of journals covered by PIF or SIF	0
			Journal is classified on a place between the first 20% of the number of journals covered by PIF or SIF	1
			Journal is classified on a place between 20%-50% of the number of journals covered by PIF or SIF	0.5
2.	POL-index – data entering	number	Confirmed by POL-index substantive operator entering full data for six years preceding the year of filling the application form	2
			Confirmed by POL-index substantive operator entering full data for two years preceding the year of filling the application form	1
			Entering data or entering incomplete data, i.e. not obtaining confirmation of data entering	0
3.	Foreign affiliation of research publication authors	%	>= 10	0.5
4.	Indexation in databases	number	>= 2	1
			= 1	0.5
5.	The number of research papers published / year	number	if the journal is annual >= 12	0.5
			if the journal is not annual >= 24	0.5
6.	Internationalisation of reviewers	%	>= 10	0.5
7.	Frequency of publishing	Dictionary of answers	quarterly or higher frequency of publishing, journal regularly published	1
8.	Language of publication	%	>= 20	1
			>= 5 and < 20	0.5
9.	Internationalisation of academic council	%	>= 10	0.5
10.	On-line version	%	= 100	1
11.	Journal publishing period	years	>= 10	1
			>= 5 and < 10	0.5

Source: the Statement of the Minister of Science and Higher Education of 2 June 2015 on criteria and evaluation of research journals.

The analysis of the above parameters due to their influence on journal score may be concluded that in majority they only have an indirect influence with substantive journal evaluation. It seems difficult to perceive differently the situation in which having on-line version of

a journal, its publishing period, number of research papers or frequency of publishing decide about the evaluation. Why should a quarterly or bimonthly journal be more worthy than a six-monthly or annual only because of the publishing cycle. However, due to the above criteria it is so.

The last stage of evaluating journals from list B is expert assessment made on the basis of journal evaluation in the scientific circles, fulfilling ethical and publishing standards, assessment of contribution into Polish and international science as well as other criteria adopted by the team evaluating journals. In fact only on this stage there is a purely substantive assessment which allows granting each journal points from 0 to 5. However, the criteria are not precise.

The rules of creating Polish list of scored journals presented above allow to formulate a conclusion that this system promotes world-famous journals with a define IF. In this scope it is an objective and quite universal standard which allows substantive evaluation of scientific publications. However, it should be indicated that among 129 Polish journals with IF on this list¹³ there are not any from social sciences (medical and exact sciences are dominating).

It is also possible to publish the papers in the international, reputable journal covering the scope of the particular branches of law. For example in the case of public finances law, we can take into account the Public Administration Review (PAR), Public Management Review (PMR) or Journal of Public Administration Research and Theory (JPART). However, such journals accept mainly papers basing on the advanced quantitative and qualitative methods, eventually but more rarely, the article presenting new, advanced theoretical frameworks in the domain of public administration (public management), including public finances. It may be concluded that a Polish researcher engaged with legal science has very limited possibilities to publish in journals from list A. Only a bit better is in the case of list C, i.e. journals indexed in ERIH database. Moreover, there is a problem connected with closing this database and the lack of possibility to apply to it. A basic solution is to publish in domestic journals from list B and in foreign ones not on the list. As it was indicated above, currently according to § 14 p 5 of the Regulation of the Minister of Science and Higher Education of 2012 on criteria and procedures for awarding scientific category to research institutes, by evaluation of research units in the group of humanities and social sciences as well as in the group of fine arts and artistic creation are also taken into account reviewed publications with size of at least 0.5 of publisher's sheet, in the language basic in the given scientific discipline or in the following languages: English, German, French, Spanish, Russian or Italian placed in a foreign scientific journal not included on the list of scientific journals.

Number of Points for Evaluation of Polish Scientific Publications

It needs to be noted that the biggest number of points a research institute receives for papers published on list A, on which journals have from 15 to 50 points. Among journals in which are published law, public administration and public management papers, i.e. journals which include public finances law, may be indicated, for instance:

- a) Public Management Review (30 points),
- b) Administrative Law Review (35 points),
- c) Journal of Law and Economics (35 points),
- d) Annual Review of Law and Social Sciences (35 points),
- e) Public Administration Review (35 points),
- f) Public Administration (35 points),
- g) Journal of Public Administration Research and Theory (50 points).

However, as it was emphasised above, the manner of conducting research for the needs of such publications is different than in the case of Polish publications.

Comparing the above score, the evaluation of the best legal journals from list B is relatively low in comparison to journals from list A and C. Legal journals from list B with the biggest number of point are presented in Table 2.

Table 2. Legal journals with the biggest number of points

Number of points	Journal title
14	„Polish Yearbook of International Law”
14	„Prawo Kanoniczne”
14	„Studia nad Autorytaryzmem i Totalitaryzmem. Studia nad Faszyzmem i Zbrodniami Hitlerowskimi”
13	„Krakowskie Studia z Historii Państwa i Prawa”
13	„Państwo i Prawo”
13	„Zeszyty Naukowe Uniwersytetu Jagiellońskiego. Prace z Prawa Własności Intelektualnej”
13	„Zeszyty Prawnicze”
12	„Archiwum Kryminologii”
12	„Archiwum Medycyny Sądowej i Kryminologii”
12	„Ekonomia i Prawo”
12	„Sprawy Międzynarodowe”
12	„Studia Prawno-Ekonomiczne”

Source: http://ekulczycki.pl/warsztat_badacza/nauki-prawne-a-zasadnosc-wykazu-czasopism-punktowanych.

The number of points is much lower when papers are published in foreign journals off the list – only 4 points, and from 2017 a research institute will get 5 points for publications in journals not on the list.

Monographies and chapters in monographies are scored differently than journals, i.e.

- authorship of monography in English, German, French, Spanish, Russian or Italian means 25 points for the institute;
- authorship of monography in Polish – 20 points;
- authorship of a chapter in monography in English, German, French, Spanish, Russian or Italian – 5 points;
- authorship of a chapter in monography in Polish – 4 points;
- scientific editing of multi-author monography in English, German, French, Spanish, Russian or Italian – 5 points;
- scientific editing of multi-author monography in Polish – 4 points.

The rules which will be binding from January 2017 have been made more detailed, e.g. the score is diversified depending on the number of co-authors, the concept of outstanding monography is introduced. Also the score itself was modified because the number of points was diversified depending on the number of co-authors. Therefore, from 2017 monographies will be scored according to the following rules:

- 1) If the work has at most three co-authors then the institute employing at least one author will get 25 points, in the case of an outstanding monography – 50 points.
- 2) If the number of co-authors is at least four then the number of points is proportional to the number of authors employed in an institute.
- 3) Multi-author monography with specified authorship of particular chapters, without indication of scientific editor and the number of authors is four or more all employed in the evaluated research institute – 15 points, in the case of an outstanding monography – 30 points.
- 4) Multi-author monography with specified authorship of particular chapters and the number of authors is four or more and the total size of chapters with the authorship of people employed in the evaluated institute (which also employs the scientific editor of the volume) covers minimum 6 publisher's

sheets – 15 points, in the case of an outstanding monography – 30 points.

What is significant, the rules binding from 2017 will decrease the number of points for a chapter in multi-author monography. In the case when the authorship of particular chapters is specified and the number of monography authors is four or more, there are 5 points for a chapter (10 points in the case of an outstanding monography) but in total not more than 15 points for all the chapters in one monography (30 for an outstanding monography) and (excluding multi-author monography with specified authorship of particular chapters and without indication of scientific editor) when the number of authors of a chapter is two or more then the institute employing the author of the chapter receives 2.5 points (10 for an outstanding monography).

The basis for recognising a monography as an “outstanding” work is a prestigious award granted in the period covered by the evaluation, e.g.: Prime Minister's Award, a Minister's award, proper division of the Polish Academy of Sciences, Scientific Committee of the Polish Academy of Sciences, Foundation for Polish Sciences, foreign scientific association, international organisation or national scientific association with outstanding prestige.

It needs to be added that for editing multi-author monography with specified authorship of particular chapters and with the number of authors four or more made by employee of evaluated institute it receives 5 points.

Moreover, by evaluating publication output in monographies as well as in journals two parameters are used for evaluation, i.e. N - meaning the total number of research and research-teaching employees and N_0 - meaning research and research-teaching employees who in the period covered by the application do not have any publications. By calculating both parameters is included working time of these employees and whether they were employed for the whole period covered by the application.

For unit evaluation is comprised a ranking list of all employees' publications. Only the number of publications three times higher than the number of employees (i.e. N employees) is significant. From this amount is subtracted double number of employees' publications who did not write any publication (N_0 employees). The number of publications taken into account may be shown by the formula $3N - 2xN_0$. Among those $3N - 2xN_0$ publications is allowed max 40% of monographies (in the case of humanities and

social sciences)¹⁴. If there is more than 40%, then the surplus is not included during evaluation and lacking items are replaced by papers from journals on further places on the ranking list. Points for selected in this manner publications are added and then divided by the number of N employees. Thus, in the premises, generally to evaluate an institute only three publications with the highest score of a given employee are taken into account in the whole period covered by the application.

The purpose to introduce such regulation is to encourage employees to publish in journals with the highest scores (mainly from lists A and C) because, for instance, two publications for 8 points do not have the same significance for an institute than one publication for 16 points.

CIOB Association as a platform for progress and publication output support for scientific employees

CIOB Association gathers both experienced as well as young researchers – specialists in the field of public finances and tax law from such countries of Eastern and Central Europe as Belarus, Bulgaria, Croatia, the Czech Republic, Kazakhstan, Lithuania, Moldova, Russia, Romania, Slovakia, Ukraine, Hungary. For this reason it may be a platform for progress and publication output support.

First of all, it is a place for discussion and contact as well as joint publications. The result of annual CIOB conferences are elaborations mainly of monographic character. Due to the gradual increase of papers significance in journals against monographies, it seems justified to start initiative facilitating the association members to publish the results of their research in international journals. For example, in 2016 CIOB is publishing conference papers both in its own journal *Annual Center Review* as well as in a monography.

Secondly, it is worth thinking about a possibility to prepare joint papers whose co-authors would be scientific employees from a few or even all member states of the Association. Legal-comparison papers based on qualitative and quantitative research are valued by reviewers of renowned international journals and could be published in journals from list A and/or having IF. Such journals in great majority are published in English. Whereas, due to the fact that the members of CIOB Association are from different countries and as a consequence speak different languages

they have the opportunity to gain unique comparative material. Therefore, within the Association we should undertake to prepare legal-comparison elaborations and try to publish them periodically in journals with IF.

Thirdly, a certain type of publication support are more or less official forms of common exchange/informing about publications prepared by CIOB members. Such a solution facilitates common citation of papers. While referring to publication written in other languages is difficult due to language barrier and would require additional support, this problem is smaller in the case of publications in English. It is worth mentioning that more and more university libraries, at least in Poland, makes publically available databases of publications prepared by employees of a given institute, so called repositories, which really facilitate access to publications. However, it should be noted that developing such formal platforms may be difficult because in the case of some publications the consent of publisher is required. In the context of Polish regulations discussed above by evaluation of research institutes are taken into account only scientific publication and not their citation. However, it does not mean that by evaluation of those institutes journal citation does not matter, since as it was indicated above, journal citation based on Web of Science and Scimago Journal & Country Rank databases are taken into account by establishing points for journals placed on the Ministry lists. Moreover, in the case of applying for National Science Centre funds, which is Polish governmental executive agency dividing funds for research, by evaluation of scientific output are taken into account the following: Impact Factor (which have only selected journals and not monographies or chapters), total number of citation excluding self-citations as well as Hirsch index for which a preferred source is Web of Science™ Core Collection or Scopus.

Fourthly, it needs to be indicated that by granting points for journals in the field of social sciences also other parameters of international character are included, such as: internationalisation of academic council and reviewers. An example of such cooperation in this scope may the *Annual Center Review* journal. It is worth checking whether in legal regulations of different CIOB member states there are analogic solutions, since CIOB is open to support and facilitate such forms of cooperation.

Fifthly, in order to undertake within CIOB any reasonable attempts supporting publication output of its members it is essential to know the standards binding in this scope

in different countries. Only after knowing them may be indicated specific actions which might be taken to implement the aim defined above. Probably sometimes due to divergent systems evaluating scientific output such initiatives will be difficult to realize but in some cases they may be possible to conduct. For instance, if in Poland by evaluation of scientific journals are included such parameters as: specified reference databases then it is possible to enter a journal to SCOPUS database, what may have even greater significance by evaluation made in other country than in Poland. From the Polish perspective it will be only one of the allowed databases but from the point of view of some other country this database may be especially preferred. However, the knowledge in this matter is essential to take such steps.

Conclusions

The analysis conducted in this elaboration indicates the complexity of criteria included by evaluation of research institutes through publications of scientific employees in Poland. The observed evolution of legal regulations and consequently parameters shows gradual increase of journals significance (especially international ones having Impact Factor) against decreasing the role of publications of monographic character. Although currently in Poland points obtained for publications do not have direct correlation by evaluating scientific output made for granting Ph.D., postdoctoral degree or professorship (but only research institutes) it should be indicated that analogical situation took place in Western Europe countries (e.g. in Belgium or Denmark) where several years ago publications in journals with IF, differently than nowadays, were not necessary for promotion. Therefore, it seems justified that besides publishing results of our research traditionally in monographies and domestic journals we should try to publish these results in renowned international journals.

Legal acts:

1. Ustawa z dnia 26 stycznia 1984 r. - Prawo prasowe (Dz. U. Nr 5, poz. 24 ze zm.).

2. Ustawa z dnia 14 marca 2003 r. o stopniach i tytule naukowym oraz o stopniach i tytule w zakresie sztuki (Dz. U. z 2014 r. poz. 1852 ze zm.).
3. Ustawa z dnia 30 kwietnia 2010 r. o finansowaniu nauki (Dz. U. z 2014 r. poz. 1620 ze zm.).
4. Ustawa z dnia 30 kwietnia 2010 r. o Narodowym Centrum Nauki (Dz. U. z 2015 r. poz. 839).
5. Rozporządzenie Ministra Nauki i Szkolnictwa Wyższego z dnia 1 września 2011 r. w sprawie kryteriów oceny osiągnięć osoby ubiegającej się o nadanie stopnia doktora habilitowanego (Dz. U. Nr 196, poz. 1165).
6. Rozporządzenie Ministra Nauki i Szkolnictwa Wyższego z dnia 13 lipca 2012 r. w sprawie kryteriów i trybu przyznawania kategorii naukowej jednostkom naukowym (Dz. U. z 2014 r. poz. 1126).
7. Rozporządzenie Ministra Nauki i Szkolnictwa Wyższego z dnia 27 października 2015 r. w sprawie kryteriów i trybu przyznawania kategorii naukowej jednostkom naukowym (Dz. U. z 2015 r. poz. 2015).

¹ Consolidated text: Journal of Laws of 2014 item 1852, later amended.

² Consolidated text: Journal of Laws of 2014, item 1620, later amended.

³ Currently it is the Regulation of the Minister of Science and Higher Education of 13 July 2012 (Journal of Laws of 2014, item 1126) and from 1 January 2017 it will be the Regulation of 27 October 2015 on criteria and procedures awarding scientific category to research institutes (Journal of Laws of 2015, item 2015).

⁴ Consolidated text: Journal of Laws of 2015, item 839.

⁵ Hereinafter referred to as CIOB.

⁶ Consolidated text: Journal of Laws of 2014, item 1126.

⁷ Journal of Laws No 196, item 1165.

⁸ See: E. Kulczycki, W Polsce jest za dużo czasopism prawie naukowych, http://ekulczycki.pl/warsztat_badacza/w-polsce-jest-za-duzo-czasopism-prawie-naukowych.

⁹ Ibid.

¹⁰ M. Lewicka, E. Kulczycki, A proposal of building part C of the "List..." based on SCOPUS/Scimago, http://ekulczycki.pl/warsztat_badacza/scopus-vs-erih-plus-jakie-zmiany-na-czekaja.

¹¹ Journal of Laws No 5, item 24 later amended.

¹² It is a Polish database of citation created as an element of POL-on system, responsible for collecting information about citations in order to determine Polish Impact Factor (PWW). This factor is in fact a Polish equivalent to Journal Impact Factor.

¹³ State as of 15 June 2016, after: <http://biblioteka.gumed.edu.pl/?strona=117>.

¹⁴ Percentage limitations will be binding from 2017, for sciences in the group of humanities and social sciences 40%, in the group of fine arts and creative activity 25%, in the group of exact sciences and engineering 20%, and in the group of life sciences 10% of value $3N-2N_0$.

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THE SYSTEM OF PUBLICATION OUTPUTS EVALUATION IN THE CZECH REPUBLIC

The methodology for the results of research organizations evaluation and the results of completed programs evaluation (valid for the years 2013 to 2015).

What Is The Methodology And Who Evaluates

The first attempt to develop a methodology for the publication outputs evaluation was established in 2011, but it was insufficient. In 2013, the Research Development and Innovation Council decided to develop a new methodology in which the rules of evaluation were more specified and the methodology was developed in detail.

The evaluation of these eligible publication outputs for the Register of Information on Results ("RIV" in Czech) is undertaken by the Research Development and Innovation Council in stages (see below).

Pillar I and Pillar II

Pillar I means specialization rating which is done by a software. Within this pillar there is also the so-called Sub-pillar I, meaning panel evaluation, in which the publication outputs are distributed to panel guarantors specialized in the given field, but always from a different institution than

the author's one. This is a real and actual evaluation of the outputs (books, chapters, articles).

Pillar II means quality assessment. Faculty offers a number of excellent publication outputs for a given period (books, articles, chapters) and these outputs are judged by an international panel.

Publications Identification (Definition of Types) and Their Division

All publication outputs must be reviewed (peer reviewed). Publication outputs are further subdivided:

B¹ Monograph:

- Reviewed (offsite author's institution).
- Original research.
- At least 50 pages of printed text itself.
- References.
- List of references.
- Footnotes.
- Author's affiliation.
- Abstract – Summary.
- Footnotes.
- Index.
- ISBN.
- Professional / reputable publishing house with editorial board.

J Article in a periodical journal:

- Expert research article.
- Quotes.
- References.
- Footnotes.
- Reviewed.
- ISSN.

Articles are subdivided into the following categories and on this basis points are awarded. If the journal fails criteria listed below, the author does not receive any points even if the article was published in prestigious international journal:

- Jimp - journal indexed in Web of Knowledge database² (Impact Factor) as Article, Review, Letter or Proceedings Paper.
- Jsc - journal indexed in Scopus database³ as Article, Review, Letter or (since 2013) Proceedings Paper.
- Jneimp - journal indexed in ERIH database⁴.
- Jrec - journal included in the list of reviewed non-impact journals, compiled by the Research Development and Innovation Council.

C Chapter in the monograph:

- Must comply with the definitions for the outputs of type B.
- Clear identification of authors of each chapter.

D Article in proceedings:

- Original research.
- Usual structure of scientific work.
- ISBN or ISSN (or both).
- Reviewed.

Articles in proceedings are subdivided into the following categories and on this basis points are awarded. If the proceedings fails criteria listed below, the author does not receive any points even in the case of prestigious international proceedings:

- Proceedings is indexed in Scopus database as Book Series or Conference Proceedings.
- Proceedings is indexed in the Conference Proceedings Citation – Web of Knowledge database.
- Special issue of a journal devoted to the conference contributions, but must be indexed in the above mentioned databases.

Points and Their Allocation

Points for the publication outputs are allocated as follows:

AG – Jurisprudence

SHVa - for a group of disciplines including Jurisprudence

Jimp - journal indexed in Web of Knowledge database (Impact Factor)	10 – 305 points
Jsc - journal indexed in Scopus database	10 – 305 points
Jneimp - journal indexed in ERIH database	10 – 30 points
Jrec - journal included in the list of reviewed non-impact journals	4 points
D Article in proceedings	8 – 60 points
C Chapter in the monograph	calculating the number of pages throughout the book to the overall proportion of pages of a chapter

Negative Points

Negative points are allocated to the publication outputs which are clearly recognized as outputs inadequate with the Methodology. The negative points are increased against the positive points: e.g. for a well reported monograph the author gets 40 points, but for a book which does not meet the Methodology (e.g. a textbook) author can earn up to minus 60 points. The price of one positive point is e.g. CZK 2500, on the other hand the price of one negative point is CZK 3500.

Other examples of negative points are e.g. textbooks recognized as an expert monograph, published case law with one or two sentences recognized as an article in the journal, etc.

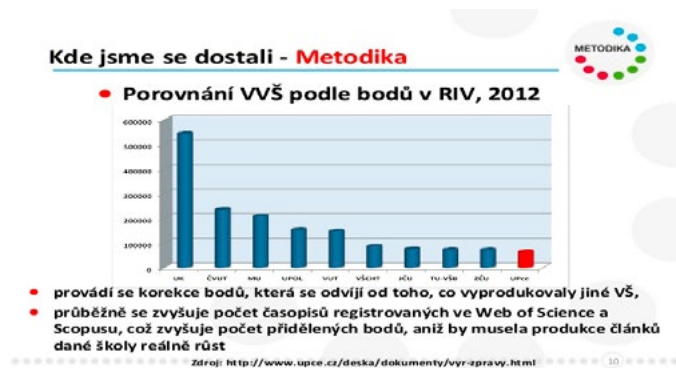
Disadvantages of the Methodology

Quantity over quality outweighs in this assessment. A large number of points for the faculty equals more money for institutional support.

Academic community is forced before publishing to ascertain whether the journal is scored and how, if it is not

a predatory publisher. For books it is necessary to choose a clear identification; e.g. if it is the second edition, it must be extended and/or revised, it is necessary to choose an appropriate publishing house, there must not be any notice that it could be used as a textbook, etc.

Picture 1. Comparison of public universities in accordance with RIV points in 2012



Source: J. Moravcová, Hodnocení financování VaV v ČR: kde jsem a kam jdeme. Seminář ČVUT, 17.9.2014.

Talking about panel evaluation, we also see the problem that it is an anonymous evaluation only from one side: the evaluator is unknown, but the evaluated is known. The members award 1 – 3 points, negative points and zero points (technical zero) for publication outputs professionally fine, but technically not meeting the requirements (missing index, footnotes in the book, etc.).

Conclusions

At the faculties there must be a referent for the issues dealing with points for publication outputs. They must not only understand the issues of R&D, but also know how to fill a record for transfer to the RIV. They must be at least basically oriented in editing, bibliography, citation, and electronic information activities, etc.

Academics must be able to fill out the forms for transmission to the RIV, as they are responsible for records as authors. Unfortunately, the faculty management takes into

account the number of points as a benchmark for evaluation of the authors at faculties.

The methodology gives this clear message: no scientific result, no institutional support. It also points out that it does not support multi-disciplinary teams.

Do we need a new methodology in the Czech Republic? Obviously yes. On 1 February 2012 a project to develop a proposal for a new system of evaluation and research funding was launched. The project focuses on International Audit of Research, Development and Innovation in the Czech Republic. A team of international experts worked on this audit till 31 October 2015. They published various analyses, reports and proposals for changes in the rankings. This team also pointed to the global trends in the evaluation. The most important was that the humanities in this respect are very underrated and there is no equal opportunity compared to technical or medical sciences.

Currently, on these recommendations, a new methodology, which should be applied from 2018, is being created. But (as usually) nothing is certain.

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¹ RIV identification.

² <http://apps.webofknowledge.com/>.

³ <https://www.scopus.com/search/form.uri?zone=TopNavBar&origin=resultslst>.

⁴ <https://dbh.nsd.uib.no/publiseringskanaler/erihplus/>.

EVALUATION OF SCIENTIFIC PUBLICATIONS IN THE FIELD OF LEGAL SCIENCES IN HUNGARY

The evaluation and system of registry of scientific publications in the field of legal studies and research shows a diverse picture in Hungary. While authors databases have been recently unified and ranking of publications/periodicals is also centralized, in the process of evaluating academic work and in the proceedings of academic career advancement (PhD, habilitation and Doctor of Sciences requirements) the evaluation systems are not used to a full extent. The following article introduces three main areas connected with this matter, namely: 1) Bibliographical databases; 2) Evaluation of articles, publications and periodicals and 3) Academic career advancement.

Bibliographical databases¹

At present there are several systems of working bibliographical databases, however among them there is one of major importance: the so-called *Magyar Tudományos Művek Tára - Database of Hungarian Scientific Work* (hereinafter referred to as MTMT Database). The work on creating a unified database was started in 2008 by the Hungarian Science Academy, the Hungarian Accreditation Committee, the Hungarian Rector's Conference, the Hungarian Scientific Research Fund and the Hungarian Doctoral Council. The main aim of establishing a unified database of scientific work was to create a universally usable, multi-purpose and interoperable national database, to create a trustworthy registry of scientific work. The creation of the MTMT Database was done by a resolution of the Hungarian Science Academy's Presidium and later all institutions of higher education joined. Since 13th July

2015 the functioning of the MTMT Database has been regulated by statute and government decree. The MTMT Database is at present exclusively used by all joined institutions, as to its technical background, it allows imports from international databases (like Web of Science, for instance). In particular, the MTMT Database provides two major services: first, it serves as a unified registry of scientific work and second as an evaluation system for publications and periodicals. The MTMT Database is run by a non-profit organization in which the founders are exercising controlling rights. The database operates in Hungarian and contains data of researchers in Hungary – it works as a national database.

Joining the MTMT Database is carried out by all institutions of higher education, which provides several benefits for them. For example: the MTMT Database's development and operation is significantly cheaper than the local development and operation; data can be used for many purposes; it is suitable to meet the internal needs of the joined institutions (habilitation, internal applications, doctoral studies, statistics, management information system); there is an external quality assurance built into the MTMT Database system and last but not least the database is able to provide compatible data for the needs of larger organizations. However, the main and most relevant aspect of the MTMT Database is that it represents a unified registry of scientific work.

As for the authors, to have a MTMT Database profile is obligatory, but several services are provided with it. Among them: primary benefits for authors are that their personal scientific bibliography compilation is simple; it requires small work maintenance needs; it is widely used;

personal website can be inserted. Also the system provides citation tracking and indexing as well as is able to calculate several other scientometric information regarding the authors.

Evaluation of articles, publications and periodicals²

As to the evaluation issues, there is a different approach between domestic and foreign/international publications and periodicals. The MTMT Database itself offers a system of publication ranking which works as an in-built evaluation system. The main rule is that the evaluation concerns concrete, specific articles – so the scientific importance of a given article is evaluated. Based on the fact that the relevance of an article is among others connected with the relevance of the periodical it was published in, the MTMT Database evaluation system emphasizes the importance of journal ranking.

Despite the fact that it is commonly accepted³ that the scientific relevance of an article does not equal automatically to the scientific importance of the periodical in which it was published, the MTMT Database uses journal ranking as an important factor during evaluation processes. It is based on the experience that the concrete article's citation index undergoes a wide statistical fluctuation during the first 3-5 year period after the publication (dependant on the scientific field). Therefore, the evaluation system of articles is connected with the evaluation of publications and periodicals in the first place. Another relevant information in this matter is that the MTMT Database uses different evaluation processes for different fields of sciences realizing that every scientific field has its own characteristics. The listing of individual scientific fields is based on the two level Scopus system, containing 330 categories.

Based on above, the MTMT Database uses scientific field based publication ranking. This means that for different scientific fields different rankings are used. In the case of international publications and periodicals the MTMT Database implemented the use of the SCImago (<http://www.scimagojr.com/>) journal ranking system, which is quite similar to the ranking system of Web of Science (in the majority of cases there are overlaps in these two ranking databases). The main reason for using SCImago was its low maintenance cost, compared to other ranking

systems. This ranking system is complemented for domestic periodicals by national rankings.

The evaluation of domestic publications and periodicals is based on the fact that in the case of many science areas domestic publications represent a very relevant forum of scientific discussion. In these cases – and the legal sciences is one among them – the MTMT Database of international ranking is also supported by a national ranking. In the field of legal sciences it is remarkable that quite a number of articles is published in Hungarian (national) journals or in international periodicals which are not enlisted in SCImago database (but are considered as relevant, from a Hungarian point of view). In these cases the SCImago is complemented by the journal ranking of the Hungarian Science Academy. The ranking system is from grade A (best), B, C to D (worst). The ranking is different for every scientific field and actualized periodically.

The main criteria for evaluation of domestic journals are: liable publisher; responsible and open editorial board; manuscripts undergo a strict evaluation (anonymous proofreading, peer-review); articles have to represent a wide scientific views and ISBN/ISSN number. Scientific journals are designed primarily for participation of professional scientific community. Non-scientific journals can be considered as partially scientific if they contain sections reserved for scientific articles, but in these cases the review of manuscript is also prescribed. A scientific publication cannot be evaluated as an article which has less than 20.000 characters in length, has no system of citations or has no references to other scientific works. Political journals, journals of general interest, daily press, weekly/monthly newsletters and such cannot also be considered as scientific publications.

Academic career advancement

Commonly, there are three plus one relevant areas where ranking systems can be used. They cover on one hand certain levels of academic progression: PhD. proceedings, habilitation, Doctor of Sciences (Doctor of the Hungarian Science Academy) and on the other hand (the plus one) the annual evaluation of academic staff.

As to PhD proceedings: the PhD studies are organized in Hungary in doctoral schools for the given science area which have complex accreditation for issuing PhD title in

the given field, that is, in the case of legal sciences, it is not limited to only certain branches of law. The minimum requirements of a PhD study are different in various doctoral schools, but it is characteristic that there is a minimal number of certain type of publication prescribed, however the ranking of the article is not an aspect of evaluation. For instance, this minimum requirement can be stated that the PhD applicant has to have at least 8 publications from the field of study (including at least 2 in a foreign language), 4 conference contributions (including 1 in a foreign language) - but it is not of major importance if the foreign publication is a conference proceedings book or a journal with impact factor. Of course during the PhD exams articles in prestigious periodicals are considered positively, which can result in higher grades during the exam, as the members of the PhD committee are normally familiar with the rank and quality of certain journals, however the general rule is that there is no point based system of publication minimum for PhD students, so the MTMT ranking system or/and the Hungarian Science Academy ranking system have no formal (or legally binding) relevance at the moment.

As to the habilitation: the basis of the habilitation is the so-called aptitude or suitability test to decide whether the applicant is suitable to fulfill the expectations for a habilitation. This suitability test is carried out by the habilitation committee, its basis is normally a relevant monograph in the field (written especially for the purpose of habilitation) together with other publications of the applicant or the academic supervisor of the applicant evaluated in a complex manner. In any case, during the habilitation a more subjective element is present – which is the consideration of the members of the committee, but there is no obligatory minimum number or quality of articles or publications.

In the third case, the proceedings of Doctor of Sciences (Doctor of the Hungarian Science Academy – the title itself is similar to the DrSc. or DSc. title known in Slovakia and in the Czech Republic), ranking systems are applied. This proceeding has a very strict evaluation method which has to be fulfilled by the applicant and has a detailed requirement system in which rankings have their major relevance. The Doctor of Science procedure is a unique type of academic achievement, a very prestigious scientific grade/level and a prerequisite to become an ordinary member of the Hungarian Science Academy. Based on these it affects

a smaller number of researchers (compared to the PhD proceedings or habilitation) and gives entitlement to represent the elite of Hungarian scientific circles. During this procedure the Hungarian Science Academy evaluates the suitability of the applicant and besides the MTMT Database also European Science Foundation (<http://www.esf.org/>) and Scopus (<https://www.scopus.com/>) databases are used.

The last area in which the ranking of publications is important is the regular evaluation of academic staff at their workplace. At present, for this purpose forms are used in which the head of the department (or head of a similar body) evaluates several categories of academic work, such as: educational and scientific work of the researcher, other academic activities, other organizational activities, etc. This annual work evaluation has a point-based system in which in every category points from 1 (worst) to 3 (best) can be given. These are basically grades given by the head of the department in connection with the evaluation of the yearly work of colleagues of a given workplace. While a higher number of publications can result in a higher grade (thus better evaluation), formally the quality or ranking of articles has no significance in this process.

Conclusions

To sum up, the unified MTMT Database represents not only a registry of scientific work, but also a ranking of periodicals and publications complemented by the rankings of the Hungarian Science Academy. The MTMT Database's ranking system is based on SCImago. The MTMT Database is accepted and universally used by all institutions of higher education and therefore is of essential importance in the system – its main function is to provide an up-to-date registry of scientific work (statistical function). The ranking function of the MTMT Database is relatively underrepresented, as at the moment there are only a few proceedings in which ranking systems are used to a full extent or have a formally binding role.

¹ <https://www.mtmt.hu/magyar-tudomanyos-muvek-tara> (20 July 2016).

² <https://www.mtmt.hu/> and https://www.mtmt.hu/sites/default/files/utmutatok/szakteruleti_folyoiratranszor_az_mtmt-ben.pdf. (20 July 2016).

³ See <http://www.ascb.org/dora/> (20 July 2016).

FORTY YEARS OF RESEARCH AND TEACHING OF PROFESSOR JANUSZ STANKIEWICZ



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It was like yesterday. I remember that well, as just becoming a doctor I took part in 1976 in employing Janusz Stankiewicz MA at the University of Warsaw, Branch in Białystok. There were two serious candidates and the decision was taken by Professor Jerzy Harasimowicz, further Scientific Master of Jubilarian. From this moment my close collaboration with Professor Janusz Stankiewicz began. His activity has had a diverse and many-sided impact on the development of teaching and research in the field of financial law in the Białystok Scientific Center. Our cooperation was impeccable, however what is worth mentioning here is its initial joy and optimism when one of us was going to take by train the manuscript to the publishing house, while the second was chasing him down the train platform to provide him the missing part of the book, or the first joint authorship of scripts to courses of “Finance and financial law” published in Białystok in 1991.

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Professor Janusz Stankiewicz was born on 6 May, 1948 in Białystok. From 1 May 1976 he was hired as an assistant and trainee at Warsaw University, Branch in Białystok, then at the Faculty of Administration and Economics. It was his primary place of work for the next 40 years, where he carried out research and where he taught. In 1983 at the Faculty of Law and Administration, the University of Warsaw, he defended his doctoral thesis on “the structures

of local government revenues in the Peoples’ Republic of Poland”. In the period 1984-1987 he was the vice director of the Institute of Law, and in 1990-1993 he was the Elector of the University of Warsaw. In 2008 he presented his habilitation thesis on “de-budgeting of public finances” defended before the Council of the Faculty of Law, the University of Białystok. In 2009 he was employed at the University of Białystok as associate professor. In the period 2009-2012 he realized his professional duties within the Faculty of Administration, the University of Białystok in Siedlce, and from 1 October 2012 within the Faculty of Law of this University. In the years 2009-2012 Professor Janusz Stankiewicz participated in the works of the Disciplinary Committee for Teachers of the General Council for Higher Education and he represented the Department of Administration in Siedlce in the Senate of the University of Białystok, taking part in the works of the Senate’s Committee on Science. On 28 May 2014, Professor Janusz Stankiewicz terminated his employment at the University of Białystok, using his right to take retirement. Since 29 May 2014, he has been employed at the University of Białystok under a contract of employment for a fixed-term position of associate professor.

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As the Jubilarian himself says, teaching activity has given him immense satisfaction for the entire period of employment at the University. He realized it mainly at the Faculty of Law, the University of Białystok, and in the years

2009-2012 at the Faculty of Administration in Siedlce, the University of Białystok. In addition, he worked at the Higher School of Finance and Management in Białystok (since 1997), from which he moved in recent years to Warsaw Higher School located in Otwock (formerly the Academy of the Entrepreneurship and Social Sciences in Otwock). The Jubilarian led a very wide range of courses in the field of public finance and financial law, in all its possible forms, starting from the exercises under the supervision of Professor Jerzy Harasimowicz, via general lectures, specialization lectures, license seminars and master's seminars. Besides the key subject of public finances and financial law lectures (at the law studies - financial law, next law of public finances), he specialized in lectures in such disciplines as financial control, tax proceedings and tax law, budgetary law, and public procurement. According to the students, he was always a well-prepared lecturer, presenting in detail the issues with great peace and in a good manner. It was confirmed by awarding the Jubilarian on 20 April 2016 the "Student Oscar 2016" for Lifetime Achievement. It is great it happened that the students of the Faculty of Law were the first to appreciate the overall merits of Professor Janusz Stankiewicz on the day almost coinciding with the 40th anniversary of his employment at the University.

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The scientific work of Professor Janusz Stankiewicz is quite rich, and at the same diverse and often very original. It consists of tens of monographs and co-authorship of approximately 10 scripts and handbooks, as well as the co-authorship of several important commentaries to legal acts. In terms of content, they are related to the areas presented below.

- 1) In the first period of his scientific work, many of the Jubilarian's publications concerned the problems of local finances, both the national and the foreign ones. In this field especially noteworthy are such publications as: *Finanse rad narodowych w latach 1944-1950*, "Zeszyty Naukowe FUW w Białymstoku" 1986, vol. 52; *Źródła równoważenia budżetów samorządu terytorialnego w latach 1944-1950*, "Zeszyty Naukowe FUW w Białymstoku" 1986, vol. 52;

Prawno-finansowe bariery i stimulatory samorządności na szczeblu lokalnym, in: Miejsce i rola samorządów w społecznościach lokalnych, Białystok 1989; *Zmiany zasad podziału terytorialnego i podstawowe problemy terenowej gospodarki finansowej Bułgarii*, in: Finanse lokalne w wybranych krajach socjalistycznych i kapitalistycznych, E. Ruśkowski (ed.); *Podstawowe zagadnienia organizacji i funkcjonowania systemu finansów lokalnych ZSRR* (with W. Kolesnikow), in: Finanse lokalne w wybranych krajach socjalistycznych i kapitalistycznych, E. Ruśkowski (ed.), Białystok 1989; *Aktualne problemy i tendencje rozwojowe finansów lokalnych w Polsce*, in: Finanse lokalne w wybranych krajach socjalistycznych i kapitalistycznych, E. Ruśkowski (ed.), Białystok 1989; *Wybrane zagadnienia władzy lokalnej i finansów lokalnych w Wlk. Brytanii*, in: Finanse komunalne w wybranych krajach europejskich, E. Ruśkowski (ed.), Białystok 1997;

- 2) Most of the Jubilarian's scientific publications concerned the widely understood state's budgetary economy and the budget law. In this group should be mentioned in particular: *Odpowiedzialność porządkowa za naruszenie dyscypliny budżetowej*, "Zeszyty Naukowe FUW w Białymstoku" 1984, vol. 41; *Problem funduszy celowych w systemie finansów publicznych*, in: Prawo finansowe i nauka prawa finansowego na przełomie wieków, A. Kostecki (ed.), Kraków 2000; *Związek zjawiska debudżetyzacji z powstawaniem deficytu budżetowego państwa*, in: Deficyt budżetowy i dług publiczny w wybranych krajach europejskich, E. Ruśkowski (ed.), Białystok 2003; the extensive sections on the state budget procedure's, the public expenditure and public procurement in the handbook: *Finanse publiczne i prawo finansowe*, C. Kosikowski, E. Ruśkowski (eds.), Warszawa 2003 (and in its consecutive editions from 2006 i 2008 r.); *Sytuacja finansów publicznych a problem funduszy celowych państwa*, in: Ekonomiczne i prawne problemy racjonalizacji wydatków publicznych – uwarunkowania i instrumenty, J. Głuchowski, A. Pomorska, J. Szofno-Koguc (eds.), Lublin 2005; *Problem funduszy celowych w systemie*

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in the same monograph: *Federacja Rosyjska oraz Ukraina; Multiannual financial planning of the state in Poland compared with selected European countries*, “Białostockie Studia Prawnicze” 2014, vol. 16; *Целевые фонды в системе публичных финансов Республики Польша*, «Публичные финансы и налоговое право», Ежегодник, выпуск 5, Воронеж 2015; *Rola sejmowej Komisji Finansów Publicznych jako organu parlamentarnej kontroli publicznej gospodarki finansowej*, in: *Państwo, gospodarka, prawo*. Księga dedykowana Profesorowi Cezaremu Kosikowskiemu z okazji jubileuszu pracy naukowej na Wydziale Prawa Uniwersytetu w Białymstoku, A. Piszcz, M. Olszak, M. Etel (eds.), Białystok 2015; *Wpływ prawa europejskiego na tworzenie polskiego prawa o wydatkach publicznych*, in: *Racjonalny ustawodawca. Racjonalna administracja*. Pamięci Profesora Eugeniusza Smoktunowicza, D.R. Kijowski, A. Miruć, A. Budnik (eds.), Białystok 2016.

- 3) Many of the publications of Profesor Janusz Staniewicz concerned the tax law and fiscal control, including *Prawo podatkowe* (with L. Etel and E. Ruśkowski), Białystok 1994; *Kontrola skarbowa* (with E. Ruśkowski), in: *Biblioteka podatkowa*, W. Goronowski (ed.), t. 1, Warszawa 1996 and the further updates; *Ustawa o kontroli skarbowej* (with E. Ruśkowski), Warszawa 1997; *Nowa forma opodatkowania – nowe obowiązki*, “Przegląd Podatkowy” 1997, no. 4; *Podstawy opodatkowania w podatku rolnym, leśnym i od nieruchomości*, “Przegląd Podatkowy” 1998, no. 1; *Skutki likwidacji działalności gospodarczej prowadzonej przez osobę fizyczną w zakresie podatku dochodowego od osób fizycznych i podatku od towarów i usług*, “Przegląd Podatkowy” 1998, no. 1; *Czynniki wpływające na wysokość opodatkowania w podatku od spadków i darowizn*, “Przegląd Podatkowy” 1998, no. 1; *Налог на товары и услуги как инструмент формирования публичного долга (на примере опыта Польши)*, «Публичные финансы и налоговое право», Ежегодник, выпуск 4, Воронеж 2014.

4) Separate attention should be paid to the latest research trend of the Professor, concerning the biographies of prominent representatives of the Polish science of the Treasury and Treasury law. So far it has resulted in: *Szkic biograficzny oraz charakterystyka i ocena dorobku naukowego w dziedzinach skarbowości, prawa skarbowego i statystyki profesora Mieczysława Witolda Gutkowskiego*, in: *Magistri Nostri skarbowości i prawa skarbowego w Polsce do 1939 roku*, T. Nieborak (ed.), Poznań 2016 and in the publishing of a review of this book. The next work devoted to Prof. M.W. Gutkowski is being printed. Due to the specificity and the originality of these studies, we should certainly wish Professor Janusz Stankiewicz further success in this area.

As a part of the substantive evaluation of all the above-mentioned scientific achievements, let me quote a fragment of his habilitation's review, which I prepared in January 2008, that "...in his publications he has presented himself as a reliable, honest specialist in the above mentioned... research trends, and some of his works were the first or even the only ones in the Polish literature (especially the studies of the local Polish finances in the years 1944-1950, or the papers on local finances in Bulgaria, the Soviet Union and the Great Britain). His publications on the fiscal control, the rationalization of public expenditure and the state earmarked funds have entered permanently to the literature". This assessment is reinforced by the latest publications of the Professor on the long-term financial planning in Poland and other European countries (especially Russia, Ukraine and Belarus), relations of EU national financial law and the biographies of Polish scientists dealing with the Treasury science and the Treasury law.

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Professor Janusz Stankiewicz is a founding member of the Center for Information and Research Organization of Public Finance and Tax Law of the Central and Eastern

European Countries. He actively participated in the majority of annual conferences, he also often published his texts in the Center's journals. He was engaged in the preparation of "Center Scientific Bulletin" being the Vice-Chairman of the Editorial Committee and the author of the second chapter of this publication. In connection with the 40th anniversary of the scientific work of the Professor and the 15th anniversary of the "Center", after consultation with the leaders of the Programme Council, the Association Board has decided to distinguish Professor Janusz Stankiewicz with a statuette and diploma "For outstanding contribution to the Center Association", hoping that he will continue to be engaged in the further development of this Organization.

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As the longtime head of the Department of Public Finance and Financial Law (formerly the Department of the Public Finance and the Tax Law) I would like to emphasize the creative influence of the Jubilarian on the functioning of these departments. Apart from the impact on his colleagues through the personal example of good and solid work in the field of teaching and research, Professor Janusz Stankiewicz has introduced to the life of the Department a certain distance, peace and peculiar sense of humour. Thanks to the Professor, the Department's life has been enriched by talks about music, old books and prints, curiosities of the life Czesław Niemen (the Professor is an activist of the Suprasl Czesław Wydrzycki-Niemen Association). I hope that in the future we will be able to use these rich experiences of the Jubilarian, wishing him health and many further comprehensive vocational and social activities.

Prof. zw. dr hab. Eugeniusz Ruśkowski
Head of the Department of Public Finances
and Financial Law
President of the Management Board
of the "Center" Association

On the occasion of the Center Scientific Bulletin preparation Prof. P. Mrkývka and D. Czudek, PhD conducted among members of the Center the questionnaire about comments and reflections on the Center.

The results will be presented successively on the pages of ACR

What do I think when I hear the word “Center”? There are several things that I will try to briefly comment.

I have first met with the Centre at a conference in Brno in 2003. Already there I appreciated the idea of meeting people who are close professionally and solve similar problems in their countries. In the following years this feeling partly changed - the human dimension deepened. It was not just about contact with colleagues from Slovakia (especially from Košice, who are also members of the Center and contacts with them remain to this day narrowest), but there was a rapprochement with a number of colleagues from Poland, Russia and other countries.

My strongest impressions - in connection with the existence of the Centre - appear to be associated with the conference in Lithuania in 2004. This conference, I think - at least for myself - was a milestone in relation to the Center. The number of members of the Centre had increased and thus the conference participants - after some initial “probing”, the first expert discussions, but also beside the conference meetings - got more to know personally. This happened during common cognition of the organizer’s country (through the social program), while strolling through the city of the conference venue, etc., when relations of colleagues changed to the relationship of friends. I believe that this trend continues to the present. New people are

coming, the group of people who, thanks to the Center, know each other not only professionally but are able to interact and help each other - this group is growing. For many people, the name of a Center member under the expert article is not a name of unknown person. The reader already knows that behind the name hides a man who the reader knows personally and with whom he can talk about the matter at the next occasion, at the next conference. All this positively reflects in the ambiance of other conferences. Each of the Center conferences has offered cognition of places, what I, as a woman who loves to travel and learn about foreign places, appreciate very much.

One more thing I want to remind in relation with Center. It is a thing that is currently a somewhat lost - which is rather a shame. At the initial meetings, presentation of conference papers and discussion were in the language of the participant, because it was based on the fact that we all understand each other. The arrival of a number of other people at the Center, however, meant the need to change this approach and the need to define the official conference languages. These languages were defined so the opportunity to perform and discuss was in the languages which were closer to a greater number of members. During informal meetings, however, the official conference languages are not applied - all can negotiate as it suits them, which is essential and beneficial for the Centre.

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