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THE HEAD OF THE TAX OFFICE AS A TAX AUTHORITY. ANALYSIS OF LEGAL AND TAX REGULATIONS

NACZELNIK URZĘDU SKARBOWEGO JAKO ORGAN PODATKOWY. ANALIZA REGULACJI PRAWNO-PODATKOWYCH

Abstract

The Tax Ordinance and other tax acts do not contain a definition of a tax authority. Article 13 of the Tax Ordinance Act lists only these authorities. The phrase *tax authority, in accordance with its jurisdiction, is* used in this provision indicates that the calculation provided therein is exhaustive. Article 13 establishes the jurisdiction of tax authorities by indicating which tax authority has the competence to consider and resolve a specific case in the first instance and which authority has the competence to verify, in the ordinary course of tax proceedings, the decision (decision) of the first instance tax authority. The Tax Ordinance does not use the concept of instance jurisdiction, but uses the phrases *first instance authority*, *appeal authority*, *higher level authority*, which allow for the definition of the instance jurisdiction of a tax authority.

Streszczenie

Ordynacja podatkowa ani inne ustawy podatkowe nie zawierają definicji organu podatkowego. Art. 13 Ordynacji podatkowej wylicza jedynie te organy. Zwrot *organem podatkowym, stosownie do swojej właściwości, jest*, użyty w tym przepisie, wskazuje, że podane w nim wyliczenie jest wyczerpujące. Art. 13 ustala właściwość instancyjną organów podatkowych przez wskazanie, który organ podatkowy ma kompetencje do rozpatrzenia i rozstrzygnięcia określonej sprawy w pierwszej instancji oraz który organ ma kompetencje do weryfikacji w zwykłym trybie postępowania podatkowego decyzji (postanowienia) organu podatkowego pierwszej instancji. Ordynacja podatkowa nie posługuje się pojęciem właściwości instancyjnej, natomiast używa sformułowań *organ pierwszej instancji*, *organ odwoławczy*, *organ wyższego stopnia*, które pozwalają na określenie właściwości instancyjnej organu podatkowego.

Keywords: *tax authority, enforcement authority, tax obligations, tax inspection, Tax Ordinance*

Słowa kluczowe: *organ podatkowy, organ egzekucyjny, zobowiazania podatkowe, kontrola podatkowa, Ordynacja podatkowa*

Introduction

Public administration should be understood as an organized and efficiently operating system of state institutions and offices operating to ensure the effective functioning of the state implementing a wide range of public tasks. Administration in Poland can be divided primarily into government and local government. Both of these forms have their own specific competences and tasks resulting from the provisions of law and the Constitution of the Republic of Poland. Local government administration operates at the local level and is responsible for implementing the tasks of local government. It consists of voivodeship, poviat and municipal organizational units and each of them is responsible for the implementation of tasks in their area. Government administration however, it can be understood as an extensive apparatus of particular rank and importance, managing many areas of public life from the highest level of government. Within it, we can distinguish primarily the supreme bodies, which are: the Council of Ministers headed by the Prime Minister and the ministers of individual ministries themselves.

The lower level of government administration consists of central bodies, subordinate to the supreme bodies and, like them, they cover the entire territory of the country. They include single-person bodies, such as the Chief Commander of the Police, the President of the Office of Competition and Consumer Protection or the Chief Sanitary Inspector, as well as collective bodies, such as the Polish Financial Supervision Authority. Interestingly, however, each supreme body is also a central body, but this rule does not work the other way around – managers (heads) of central bodies are not members of the Council of Ministers, despite the fact that their activities cover the territory of the entire country, performing their tasks. and fulfilling the entrusted competences.

Research methodology

The research methods used in the legal sciences are related to their problematics and the functions performed. In the literature of legal theory, it is indicated that within the legal sciences we distinguish dogmatic, socio-technical and theoretical problematics. Dogmatic problematic concerns about the identification of legal norms belonging to a given system of law. Sociotechnical problematics in the legal sciences is related to the impact of law making and the corresponding application of the law on certain social effects. The theoretical problematics of legal science concerns the formulation of claims about the applicable law. From this scope arises the methodological problematics of legal science, dealing with the description of methods, ways of solving particular problems or formulating directives on how to solve these problems.

The head of the tax office as a tax authority

The head of the tax office is a public administration body, or more precisely, a non-united government administration body. It has a wide range of competences and tasks entrusted by law, but one of its most important functions is undoubtedly acting as a tax authority. A tax authority should be understood as a public law association representing the state responsible for carrying out activities related to the assessment and collection of taxes (Olesińska, 2004). However, the assessment is the making of a decision binding on the taxpayer, taking the form of a decision, as a result of the tax proceedings conducted (Brzeziński, Kalinowski, Masternak, Morawski 2006). It should also be clearly noted that although the head of the tax office is listed in the catalog of tax authorities right next to the head of the customs and tax office, they should not be equated with each other (Judgment of the Provincial Administrative Court in Gliwice of June 25, 2020, I SAB/Gl 18/20). Each tax authority should respect its jurisdiction, which means its legal capacity to conduct specific tax proceedings (Nowak, 2016). Among the properties, several types can be distinguished, i.e. (Sawicka, 2014):

1. subject matter jurisdiction – determined by a specific category of cases;

2. local jurisdiction – determined on the basis of a specific territorial area;
3. jurisdiction of the instance – vested in the appellate bodies;
4. delegation jurisdiction – assigned to an authority designated to deal with a given matter by a higher-level authority.

Importantly, the violation of the provisions on jurisdiction is one of the grounds for invalidating the issued tax decision and it is irrelevant what type of decision was violated by the authority as well as the accuracy and substantiveness of the decision taken (Judgment of the Provincial Administrative Court in Gliwice of October 9, 2015, II SA/Gl 334/15). For this reason, each head of the tax office is obliged to scrupulously examine his/her jurisdiction at every stage of the proceedings (Knapik, 2012). The provisions of the Tax Ordinance also provide for the institution of the so-called consolidation of the competences of the tax authority in accordance with the principle of *perpetuatio fori*, used in civil law. It consists in assuming that the head of the tax office competent on the date of initiation of the tax audit or tax proceedings remains competent in all matters relating to the tax liability that is the subject of the above-mentioned (Wołowiec 2016). procedures, without recognizing events that would potentially result in a change in jurisdiction (Act of August 29, 1997, Tax Ordinance, Journal of Laws of 2022, item 2651, as amended, Art. 18b).

There are also specific implementing acts in legal transactions that determine the local and material jurisdiction of designated tax authorities. For example, the tax offices designated to perform tasks in the field of excise tax in the territory of the Łódź Voivodeship are(Regulation of the Minister of Development and Finance of February 21, 2017 on the competences of tax offices and tax administration chambers in the field of excise duty (consolidated text: Journal of Laws of 2022, item 552):

1. First Tax Office Łódź-Górna – for the following poviats: Brzeziński, Łask, eastern Łódź, Pabianice, Rawski, Sieradz, Skierniewice, Wieluń, Wieruszów, Zduńskowolski and for parts of the city of Łódź called Górna and Widzew and the city of Skierniewice.
2. Second Tax Office Łódź-Bałuty – for the following counties: Kutno, Łęczyca, Poddębice, Zgierz and parts of the city of Łódź called Bałuty, Polesie and Śródmieście.

3. Tax Office in Piotrków Trybunalski – for the following poviats: Bełchatów, Opoczyński, Pajęczno, Piotrków, Radomszczański, Tomaszów and the city of Piotrków Trybunalski.

Special property jurisdiction also exists, among others, in matters relating to taxation with personal income tax and corporate income tax from business activities, obtained by taxpayers who are the so-called non-residents (natural persons living abroad, legal persons having their registered office abroad) For example, if a non-resident runs a business in the Łódź Voivodeship, the head of the tax office responsible for him in this respect will be (Regulation of the Minister of Finance of August 22, 2005 on the competences of tax authorities, Journal of Laws Laws of 2022, item 565):

1. for a non-resident who is a natural person – the Head of the Tax Office Łódź-Śródmieście;
2. for a non-resident who is a legal person – the Head of the Łódź Tax Office in Łódź.

With regard to the jurisdiction of the instance, the head of the tax office is the so-called tax authority. first degree. The higher authority for decisions issued by him is the director of the tax administration chamber. The rule is that if a taxpayer files an appeal against a decision or submits a complaint against a decision, the head of the tax office should forward it without undue delay (within a maximum of 14 days) to the tax authority of the second instance, together with the case files and the position taken in relation to the allegations presented, addressed to also to the attention of the parties to the proceedings. An exception is the situation in which the head of the tax office recognizes the validity of the above-mentioned appeals in their entirety and will issue a new decision or order which will repeal or amend the decision it has issued. This is the so-called institution inter-instance self-control (Wołowiec, 2017). It should be emphasized, however, that the head of the tax office cannot discontinue the proceedings as this type of decision is reserved for the exclusive competence of the director of the tax administration chamber as an appeal body.(Judgment of the Supreme Administrative Court of January 8, 2020, II FSK 354/18). The latter, when issuing its decision, must comply

with the prohibition of reformationis in peius, which protects the party against an unfavorable decision that worsens its situation in relation to the findings of the first-instance authority – a departure from the norm thus adopted is a situation in which the decision challenged by the taxpayer grossly violates the law or public interest. (Judgment of the Provincial Administrative Court in Olsztyn of June 29, 2022, I SA/Ol 222/22).

There are sometimes disputes over jurisdiction between heads of tax offices, the outcome of which is decided by:

1. the director of a given tax administration chamber – if the disputing heads of tax offices operate in the territorial area subordinated to him;
2. Head of the National Tax Administration – if the heads of tax offices report to different directors of tax administration chambers or if the dispute is between the head of the tax office and the head of the customs and tax office;
3. administrative court – if the dispute concerns the head of the tax office and the local government tax authority (comeat / mayor / city president, starosta or voivodeship marshal).

A dispute may arise not only when none of the authorities considers itself competent in the case (negative dispute), but also when all of them feel responsible for examining and resolving a given case (positive dispute) (Judgment of the Provincial Administrative Court in Gdańsk of June 26, 2019, I SA/Gd 712/19). Importantly, the initiator of proceedings regarding a dispute can only be an authority that is a party to it. Taxpayers, even though the disputed proceedings concern them, do not have the right to initiate a case in this respect.

The head of the tax office, within his jurisdiction and competences, may conduct the following types of tax proceedings in matters including:

1. dimension, i.e. determining or determining the amount of tax liability (including additional tax liability);
2. securing the fulfillment of tax obligations – carried out in the course of a tax audit or tax proceedings;
3. judgments on tax liability – of the taxpayer, payer, collector, third party or legal successor;

4. for relief in the repayment of tax liabilities in the form of: deferment of the deadline for payment of tax or tax arrears, spreading the payment of tax, tax arrears or interest on late payment of tax advances into installments, cancellation of tax arrears, interest for late payment or extension fee;
5. determining the amount of interest for late payment or tax refund;
6. finding an overpayment of tax.

Tax proceedings are a special type of administrative proceedings. It is not an adversarial procedure, but fits more into the inquisitorial model of administrative procedure (Sygut, 2018), but requires the head of the tax office to respect the rules of its conduct. These principles constitute interpretative guidelines and suggestions of the so-called good administration, recommendations and practices (Szumlakowski, 2011). The first and most important principle, taking precedence over the others, is the principle of legalism (the rule of law) derived from the Constitution of the Republic of Poland and meaning that the actions of the head of the tax office must be confirmed by the provisions of applicable law – not only tax law. This principle is the starting point for the remaining rules of conduct listed in the Tax Ordinance. There is a very rich case law of administrative courts regarding the principles of tax proceedings, which is why Table 1 presents one example confirming respect for and violation of each of these principles.

Table 1. *Principles of tax proceedings against the background of the jurisprudence of administrative courts*

RULES OF TAX PROCEDURE – EXAMPLES FROM JURISDICTION		
the rule of law	respect	repeated, correct delivery of the decision, which was initially made incorrectly(judgment of the Provincial Administrative Court in Szczecin of October 12, 2022, I SA/Sz 631/22, Legalis No. 2759024)
	infringement	delivering the letter to the registration address from the official records, instead of to the address reported by the taxpayer as for correspondence(judgment of the Provincial Administrative Court in Warsaw of April 23, 2020, III SA/Wa 2453/19, LEX no. 3099351)
the principle of trust	respect	adopting an interpretation of legal provisions favorable to the taxpayer in the event of factual doubts(judgment of the Supreme Administrative Court of November 16, 2022, III FSK 1704/21, LEX no. 3447503)
	infringement	issuance of different decisions for different taxpayers in similar factual situations(judgment of the Provincial Administrative Court in Białystok of January 14, 2022, I SA/Bk 550/21, LEX no. 3305344)
principle of providing information	respect	comprehensively informing the party about the authority's motives in resolving the case(judgment of the Provincial Administrative Court in Poznań of October 5, 2022, I SA/Po 448/22, LEX no. 3425492)
	infringement	failure to provide the party with information on the date on which the letter was deemed delivered(judgment of the Supreme Administrative Court of May 24, 2022, II FSK 2529/19, Legalis No. 2774064)
the principle of objective truth	respect	the tax authority does not have to search endlessly for evidence when it is not offered by the taxpayer himself(judgment of the Provincial Administrative Court in Lublin of January 11, 2023, I SA/Lu 456/22, LEX No. 3480787)
	infringement	omitting mental illness as a condition exempting a management board member from tax liability(judgment of the Supreme Administrative Court of December 1, 2022, III FSK 1268/21, Legalis No. 2861525)
the principle of active participation of the parties	respect	enabling the party to review and comment on evidence obtained without its participation(judgment of the Provincial Administrative Court in Gliwice of March 10, 2020, I SA/Gl 1597/19, LEX no. 3007186)
	infringement	setting dates for evidentiary proceedings on the same day, in remote towns(judgment of the Provincial Administrative Court in Wrocław of December 11, 2019, I SA/Wr 678/18, LEX no. 2976853)
the principle of persuasion	respect	comprehensive justification for the decision to extend the deadline for VAT refund(judgment of the Supreme Administrative Court of July 15, 2022, I FSK 2243/21, Legalis No. 2743290)
	infringement	omission of facts relevant to a given case in the justification of the decision(exprok Provincial Administrative Court in Bydgoszcz of December 13, 2022, I SA/Bd 572/22, LEX No. 3458238)
the principle of speed and simplicity	respect	covering several settlement periods with one decision(judgment of the Supreme Administrative Court of November 16, 2022, I FSK 89/19, LEX no. 3506097)
	infringement	delaying the completion of proceedings despite having sufficient evidence(judgment of the Supreme Administrative Court of August 19, 2021, I FSK 1993/19, LEX no. 3252803)

the principle of writing	respect	delivery of letters with return receipt requested(judgment of the Provincial Administrative Court in Gdańsk of July 2, 2019, I SA/Gd 853/19, Legalis No. 1970635)
	infringement	delivery of a photocopy of the decision(judgment of the Supreme Administrative Court of December 6, 2017, I FSK 1605/17, LEX no. 2422701)
the principle of two instances	respect	reconsideration of the case in all its aspects as a result of an appeal(judgment of the Provincial Administrative Court in Rzeszów of December 13, 2022, I SA/Rz 526/22, Legalis No. 2858734)
	infringement	taking evidentiary proceedings only in the second instance(judgment of the Provincial Administrative Court in Gdańsk of February 21, 2023, I SA/Gd 1270/22, LEX no. 3507895)
the principle of durability of final decisions	respect	each final decision enjoys the presumption of its legality(judgment of the Provincial Administrative Court in Olsztyn of October 13, 2022, I SA/Ol 305/22, Legalis No. 2759358)
	infringement	substantive reconsideration of the entire case in the course of extraordinary proceedings(judgment of the Supreme Administrative Court of August 17, 2021, II FSK 3819/18, Legalis No. 2656273)
principle of transparency	respect	showing the website documents containing other people's data, after anonymizing them(judgment of the Supreme Administrative Court of May 27, 2020, II GSK 159/20, Legalis No. 2492798)
	infringement	undertaking activities with the participation of an improperly authorized representative(judgment of the Supreme Administrative Court of July 17, 2014, I FSK 893/13, LEX no. 1517771)
the principle of official delivery	respect	application of the law applicable at the place of delivery in the case of foreign delivery(judgment of the Provincial Administrative Court in Poznań of August 4, 2022, I SA/Po 93/22, LEX no. 3393202)
	infringement	issuing a decision in paper form, scanning it and sending it to the representative via electronic means of communication(judgment of the Provincial Administrative Court in Gorzów Wielkopolski of February 23, 2023, I SA/Go 450/22, LEX no. 3503112)
the principle of completeness of evidence	respect	a factual state constituting a complete, coherent and logical whole after collecting and considering all the evidence(judgment of the Provincial Administrative Court in Wrocław of December 1, 2022, I SA/Wr 1074/21, Legalis No. 2840412)
	infringement	basing the decision mainly on evidence collected by other tax authorities in their tax proceedings(judgment of the Provincial Administrative Court in Łódź of May 25, 2022, I SA/Łd 151/22, LEX no. 3356134)
the principle of free assessment of evidence	respect	comprehensive evaluation of evidence, in accordance with the rules of logical reasoning, with conclusions consistent with life experience(judgment of the Provincial Administrative Court in Kraków of January 19, 2023, I SA/Kr 1139/22, LEX no. 3501560)
	infringement	attributing tax fraud to a party based on a global assessment of the tax carousel and not on an individual transaction chain(judgment of the Provincial Administrative Court in Warsaw of October 10, 2022, III SA/Wa 2912/21, Legalis no. 2758116)

Source: own study based on a review of the case law of administrative courts.

Tax inspection – a stage preceding tax proceedings

The stage preceding tax proceedings is usually a tax audit, the purpose of which is to determine whether the taxpayer has properly fulfilled its obligations in accordance with the provisions of tax law. During the procedure, the head of the tax office checks, among others: correctness and completeness of keeping tax books, correctness of tax settlements, correctness of reporting income and compliance with the provisions on tax exemptions, reliefs and deductions. Tax inspection may also concern the correctness of transactions between related taxpayers (e.g. operating within one capital group or Special Economic Zone) – this is the so-called transfer pricing control. A tax audit is never initiated at the request of a party, the head of the tax office undertakes it ex officio (Judgment of the Provincial Administrative Court in Kraków of November 5, 2014, I SA/Kr 1157/14). Moreover, it is one of the most effective procedures aimed at obtaining full information about the taxpayer's situation through access to his financial and accounting documentation.

It is not without significance that with the arrival of 2020, the entire public administration sector was struggling with the negative effects of the COVID-19 pandemic – including: staff shortages in tax offices caused by the rapid increase in coronavirus cases, the need to implement a remote work model, the inability to conduct activities at the taxpayer's headquarters during the epidemic, etc. It should be noted, however, that the tools and IT systems used in the activities of the National Tax Administration authorities when selecting entities and areas to be inspected are in the process of continuous improvement – e.g. JPK structures, the STIR system for detecting tax fraud through the financial sector, the ZISAR application, etc. Therefore , although they are becoming more and more rare, tax audits are becoming, above all, more accurate and more effective (Zalewski, 2021).

A less formalized form of verification of taxpayers' activities by the head of the tax office as a tax authority are verification activities that are aimed at examining a specific activity or transaction of the taxpayer. Their essence is, in fact, to eliminate irregularities in tax settlements, without the need to carry out the entire tax procedure, although in some way they constitute

a type of quasi-audit procedure.(Łoboda 2019). It can be said that they are a competitive mode for it, but they should never be used together with it or interchangeably (Judgment of the Provincial Administrative Court in Szczecin of February 21, 2018, I SA/Sz 949/17). Similarly to tax inspections, inspection activities are carried out on the sole initiative of the head of the tax office and may concern, among others:

1. checking whether the taxpayer fulfills the obligation to submit tax returns and declarations on time and pays the taxes indicated therein;
2. analyze whether the above-mentioned the documents are completed in a formally correct manner, and if not, the taxpayer is requested to provide explanations regarding the reliability of the data contained therein;
3. the need to establish the actual situation in terms of its compliance with the submitted documents;
4. verification whether the taxpayer has disclosed all sources of its revenues (income) and incurred expenses in order to determine the actual tax base;
5. analysis of the veracity of data and documents presented by taxpayers registering at the tax office for the purposes of value added tax or excise duty;
6. determining the reasons for not submitting the declaration;
7. verify the validity of the tax refund.

Importantly, they can be undertaken multiple times and are not time-limited. They are often one of the most accessible and at the same time least burdensome official forms of contact between the tax authority and the taxpayer, although a different position can also be found in the literature (Dzwonkowski, 2006).

If the declaration is verified and found to be incorrect at the stage of verification activities, the head of the tax office may ex officio correct it to the extent of obvious errors or accounting errors, if a change in the amount of tax liability, overpayment, loss, tax refund or surplus of tax on goods and services to transferred to the next settlement period will not exceed PLN 5,000. In such a case, the head of the tax office sends the taxpayer (payer or collector) a certified copy of the declaration he has corrected, together with information on the correctly

calculated amount and instructions on the possibility of filing an objection to cancel the correction. If the taxpayer does not use this right, the correction of the declaration prepared by the tax authority is treated as submitted by that taxpayer. However, if formal or accounting errors are significant enough or do not fall within the limit of PLN 5,000, the head of the tax office calls on the author of the declaration to correct it and provide the necessary explanations regarding the data raised in doubt. If the party refuses to make an appropriate correction or simply fails to do so within the time specified in the request, the head of the tax office will initiate the previously discussed tax audit or tax proceedings.(Mariański, 2023).

The head of the tax office as a creditor

A creditor, as defined inAct on enforcement proceedings in administration. is an entity entitled to demand the performance of a given obligation or its security in administrative enforcement or security proceedings (Act of 17 June 1966 on enforcement proceedings in administration, Journal of Laws Laws of 2022, item 479, as amended). The concept of creditor was used for the first time in the decree of January 28, 1947 on the administrative enforcement of monetary benefits – previously the legislator used the phrase *applicant*. The basic competence of the creditor is to take actions aimed at applying enforcement measures against the obligated person. There is the so-called an active entity because it plays the role of co-host of the enforcement proceedings and actively participates in every stage of the proceedings.

The head of the tax office, in addition to being a creditor, is also the enforcement authority for the above-mentioned. cash receivables. Therefore, there is a certain administrative dualism of this body. However, it should be clearly emphasized that these roles are separate, even though one and the same body actually operates here. However, thanks to this division, the activities of the enforcement authority that would be undertaken at the creditor's request in the event of a lack of identity are performed ex officio. It should be noted, however, that the head of the tax office is de facto a creditor-intermediary, because he performs obligations for the benefit of a public law entity.in the form of the State Treasury. Therefore, he is strictly its

statutory representative and does not act solely in his own interest. It can therefore be said that the head of the tax office only performs the procedural function of a creditor (Judgment of the Provincial Administrative Court in Kraków of June 18, 2021, I SA/Kr 166/21).

A special type of administrative relationship connects the head of the tax office with the obligor. They are characterized by opposing interests. The purpose of the former is to achieve the fulfillment of a specific monetary obligation. The second one is the party against whom coercive measures are used. The head of the tax office, as a creditor, may, in the course of ongoing enforcement proceedings, issue decisions in the form of resolutions affecting the legal sphere of the obligor, i.e. in matters:

1. the objection of the obligated spouse regarding the execution of joint property;
2. consideration of the objection regarding administrative enforcement.

A different type of legal relationship may exist between the head of the tax office and the debtor of the seized receivable. An example of such an action is, for example, the latter's liability for damages to the creditor for improper performance of obligations (e.g. related to the implementation of enforcement seizure), which led to damage to the creditor. In such a case, a civil law relationship will be established between these two entities, as such claims are pursued on the basis of the provisions of the Civil Code.

However, before enforcement proceedings are initiated, the head of the tax office, as a creditor, takes steps to apply enforcement measures against the obligor if the obligor fails to fulfill the obligation to pay the due obligation. Importantly, the head of the tax office cannot decide at his own discretion whether to initiate enforcement or not. The principle of mandatory initiation and conduct of administrative enforcement applies here(Judgment of the Supreme Administrative Court of March 30, 2022, III FSK 440/21). A derogation from the above. The rule is that the claimed monetary obligation together with additional liabilities (interest for late payment, reminder costs) do not exceed PLN 160 (ten times the cost of the reminder), and the period remaining until the limitation period is longer than 6 months. The head of the tax office also has the right to refrain from activities aimed at applying enforcement

measures if 12 months have not elapsed from the date of issuing the decision to discontinue enforcement proceedings due to its ineffectiveness. Theoretically, after this deadline, enforcement proceedings should be initiated again, but this depends on the examination of the financial situation of the obligor.

The first stage of the pre-enforcement proceedings of the head of the tax office are often information activities (introduced on January 1, 2016), consisting mainly in telephone or e-mail contact with the taxpayer – the so-called *soft enforcement* disciplining the taxpayer to voluntarily pay a debt for which the statutory payment deadline has expired(Act of July 10, 2015 on tax administration, Journal of Laws Laws of 2015, item 1269, as amended). Unlike the principle of obligatory initiation of enforcement, undertaking information activities is the right and not the obligation of the head of the tax office. It should be emphasized, however, that this method is mainly used for reliable taxpayers against whom enforcement proceedings are not pending and the amount of arrears is relatively small (usually around ten times the cost of the reminder, i.e. PLN 160) or those who will be able to repay the debt. within e.g. a few days. This solution is good because it does not actually generate any additional costs. Importantly, however, such actions can only be taken if the limitation period for a monetary receivable exceeds 6 months (Regulation of the Minister of Finance, Funds and Regional Policy of November 18, 2020 on the conduct of creditors of monetary receivables, Journal of Laws . of 2020, item 2083).

The usual action taken by the head of the tax office in the event of failure to timely fulfill a monetary obligation is to issue and deliver to the obligor a written warning requesting him to fulfill the obligation, under pain of referring the case to enforcement proceedings. The reminder is sent to the obligor only once(Judgment of the Provincial Administrative Court in Szczecin of March 10, 2022, I SA/Sz 1011/21), the head of the tax office is not obliged to send another reminder even in the event of initiating enforcement proceedings in the same area (e.g. after previous discontinuation due to ineffectiveness) . The above activity is carried out by the so-called the threat principle, the essence of which is, on the one hand, to remind the obligor to settle the claimed debt, and, on the other hand, to prevent the initiation of enforcement if the obligation has already been paid or does not exist at all (Ofiarska, 2016). It should be emphasized that, although failure to deliver a warning does not mean that

the enforced obligation is not due, it does constitute the basis for an allegation regarding administrative enforcement, although its justification cannot be, for example, failure to send correspondence to the correct address or the fact that the postman did not place notices in the mailbox (Judgment Provincial Administrative Court in Szczecin of March 2, 2022, I SA/Sz 1023/21).

The enforcement proceedings themselves may be initiated only after 7 days from the date of delivery of the notice. Compliance with this deadline is very important, because if the head of the tax office prematurely issues an enforcement order, it will be treated as a gross violation of the law.(Judgment of the Provincial Administrative Court in Poznań of January 24, 2018, I SA/Po 984/17). Due to the fact that the head of the tax office is a creditor and an enforcement authority at the same time, in accordance with the interpretation of the moment of initiation of enforcement proceedings, it should be emphasized that it takes place when the enforcement title is marked with a clause referring it to administrative enforcement, i.e. when it is signed by a person authorized to acting on behalf of the creditor (Judgment of the Provincial Administrative Court in Wrocław of October 20, 2022, III SA/Wr 393/21).

As a rule, a warning should be issued and sent to the obligor immediately if the so-called *soft execution* or no later than 21 days from the date on which such information activities were undertaken. It has only informative value and the legislator did not provide for the admissibility of the obliged person to bring any legal remedy, which is why the warning is treated as an irrevocable action of the creditor (Resolution of the Provincial Administrative Court in Kraków of February 18, 2022, I SA/Kr 1749/21). The reminder may concern several receivables of the same debtor. It does not have a template rigidly defined by law, but should contain obligatorily (Regulation of the Minister of Finance, Funds and Regional Policy of December 4, 2020 on the data included in the reminder, Journal of Laws of 2020, item 2194):

1. number and date of issue of the reminder;
2. name of the creditor, address of its registered office (or organizational unit);
3. name and surname or name of the obligor along with his address of residence or registered office and PESEL or NIP or REGON number, if the obligated party has such a number;

4. indication of the type, period and amount of the monetary receivable along with the type, amount and rate of late payment interest charged on the date of issuing the reminder;
5. amount of warning costs (currently PLN 16) (Regulation of the Minister of Finance, Funds and Regional Policy of January 5, 2021 on the costs of warnings delivered to the obligor before initiating administrative enforcement, Journal of Laws Laws of 2021, item 67);
6. determining the method of payment of the due monetary amount;
7. a request to fulfill an obligation, with the threat of referring the case to enforcement proceedings after 7 days from the date of delivery of the warning;
8. an instruction that in the event of initiation of administrative enforcement, enforcement measures will be applied, which will result in the calculation of enforcement costs (in the enforcement of monetary receivables: PLN 100 handling fee separately for each enforcement title, enforcement fee charged on funds recovered or paid to the enforcement authority or creditor, enforcement expenses , fees for enforcement activities);
9. instruction on the obligation to notify the creditor and the enforcement authority about a change of the address of the place of residence or registered office, with an indication that otherwise delivery of letters at the current address will be treated as effective;
10. name, surname, job position and signature of the person authorized to act on behalf of the creditor (the automatically generated reminder does not have to be signed).

Conclusions

It should be emphasized that non-integrated government administration bodies operate on the principle of centralization, which means that lower-level bodies are subordinated to higher-level bodies on a hierarchical basis. This is not only an official relationship, but also a personal one, which is why the director of the tax administration chamber has the right in relation to the head of the tax office:

1. directing work in a manner deemed appropriate;
2. issuing instructions, guidelines and procedures;
3. directive interference in its activities;
4. deciding on personnel matters.

You may be the head of a given tax office for a period not longer than 5 years, and the minister responsible for public finances may, at the request of the Head of the Tax Office,the Paradise Tax Administration to extend this deadline for another maximum of 5 years. It can be assumed that the time limit in question was introduced in order to prevent lack of rotation and holding such a high managerial position for too long, to prevent negative effects related to it, such as lack of new management ideas, stagnation in the development of the organization, corruption or accumulation of power in the hands of one person. persons.

Heads of tax offices are also subject to management control exercised by the minister responsible for public finances, by setting annual plans for the activities of government administration units in areas such as the budget, public finances and financial institutions, and by the Head of the National Revenue Administration himself, who sets four-year directions of action for the entire organization. . Study of the implementation of the above-mentioned purposes is carried out using the so-called central metrics, i.e. specific indicators that allow assessing the effectiveness of their work in the public sector and the effectiveness of the actions taken. Thanks to them, the head of the tax office has clearly defined goals to achieve, and at the same time is able to monitor his progress or, if necessary, introduce necessary changes to improve specific areas of the activity of the office he manages. These measures include, for example,

the number of completed tax audits, appeals against assessment decisions, the speed and timeliness of settling cases initiated at taxpayers' requests, the level of tax revenues from administrative enforcement as well as the increase in arrears due and the speed of undertaking debt collection activities regarding them.

A person who is to hold the position of the head of the office must meet a number of material conditions necessary to be appointed and continue to perform this function, i.e.:

1. it is obligatory to have Polish citizenship and enjoy full public rights;
2. cannot be convicted by a final court judgment of an intentional crime (including a fiscal crime);
3. cannot be legally prohibited from holding managerial positions in public authority offices or from performing duties related to the management of public funds;
4. must have a master's degree in law, administration, economics, management or another field, supplemented with postgraduate studies in one of these four specializations;
5. is obliged to have at least five years of work or service experience as well as managerial competences;
6. should enjoy an impeccable reputation.

The content of the act of appointment as the head of the tax office itself is, in principle, as follows: *Pursuant to Art. 27 section 1 of the Act of November 16, 2016 on the National Tax Administration, at the request of the Director of the Tax Administration Chamber in (…), as of (…), I appoint Mr/Mrs. (…) to the position of the Head of the Tax Office in (…).* However, it should be remembered that the head of the tax office, due to the nature of his employment relationship, may be dismissed from his position at any time by the authority that appointed him, i.e. the Head of the National Tax Office, therefore he is obliged to act as effectively as possible compared to other tax offices, concentrated within a given tax administration chamber.

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