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ANALYSIS OF SELECTED INSTRUMENTS FOR MANAGING THE TAX RISK IN THE COMPANY

„The brain of a mathematician will not be enough
for taxes; here a philosopher is needed...”

Albert Einstein

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Key words: tax planning, tax optimisation, tax risk, tax risk management instruments, written individual interpretations, explanations by the National Tax Information Service, general interpretations, application for establishing of overpayment.

A b s t r a c t

Planning, optimisation and tax risk are the fundamental components of tax risk management. Written individual interpretations represent one of the most frequently used instruments of tax risk management in Poland. They are a mass and highly popular means of mitigating the consequences of ambiguities in the tax law net to the explanations by the National Tax Information Service, general interpretations or the application for establishing overpayment that are the subject of consideration of this paper.

ANALIZA WYBRANYCH INSTRUMENTÓW ZARZĄDZANIA RYZYKIEM PODATKOWYM W FIRMIE

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Słowa kluczowe: planowanie podatkowe, optymalizacja podatkowa, ryzyko podatkowe, instrumenty zarządzania ryzykiem podatkowym, pisemne interpretacje indywidualne, wyjaśnienia Krajowej Informacji Podatkowej, interpretacje ogólne, wniosek o stwierdzenie nadpłaty.

Abstrakt

Podstawowymi elementami zarządzania ryzykiem podatkowym są planowanie, optymalizacja oraz ryzyko podatkowe. Wśród najczęściej wykorzystywanych instrumentów zarządzania ryzykiem podatkowym w Polsce znajdują się pisemne interpretacje indywidualne. Stanowią one masowy i bardzo popularny środek łagodzenia skutków niejasności prawa podatkowego obok wyjaśnień Krajowej Informacji Podatkowej, interpretacji ogólnych czy wniosku o stwierdzenie nadpłaty, które stanowią przedmiot rozważań tego artykułu.

Introduction

Tax risk is the derivative of the tax regulations quality. Aiming at reduction of that risk the entrepreneurs employ various measures and actions that are referred to as the tax risk management instruments. The entrepreneurs take care of the adequate professional level of the accounting personnel, appropriate choice of the external advisors, introduce the internal procedures – mechanisms of settlements' control, in a conscious way identify transactions bearing an increased risk, etc. The instruments that require collaboration with the tax administration represent a special group of such instruments. And it is that group that includes the individual interpretations, explanations by the National Tax Information Service, general interpretations and applications for establishing overpayment that are the subject of consideration in this publication.

Stages of tax management process

Planning, optimisation and risk are the key stages of the tax risk management process. Those notions or measures involved in them overlap frequently, mix and mutually influence one another.

Tax planning

In the wider meaning tax planning means consideration of tax consequences in economic planning. Tax planning may cover a given undertaking or represent a component of continual monitoring of the current activities of the enterprise. Taxes represent a component in numerous elements of the financial plan such as revenues, operational and financial costs, depreciation and as a consequence appropriate identification of the tax consequences of the actions taken is of major importance for the financial result. In the practice of tax

advisory services special methods of tax burden measurement are applied on the base of which the so-called effective tax rate is one of the computed factors.

Tax planning does not cover just the issues related to the tax level. It should consider various elements such as, e.g. financial liquidity. Choice of longer settlement periods or payment of advances (e.g. quarterly) allows longer settlement times with partners and offers competitive advantage not only in the tax area (INIEWSKI, NIKOŃCZYK 2011, p. 4).

The choice of paying tax advances in the simplified form as 1/12 of the tax amount for the preceding tax year is an example of tax planning. A decision of that type allows avoiding the duty of computing the amounts of advances during the tax year and limits the risk related to the correct representation of revenues and costs during the tax year. However, limitation to the incidental choice without further analysis of its consequences for the conducted activity and economic environment may result in the lack of possibilities for performance of duties and even collapse of the company. In case the year according to which we determine the advances in the simplified form was a year of high profits and the current year is a crisis year it may happen that we are unable to generate revenues guarantying payment of the tax in the simplified way and we will be forced to pay taxes at the expense of the working capital. Continuity of tax planning, market observation and mitigating the demand as well as adequately early decision on a change of payment of the advances may protect the taxpayer against that risk.

In case of small taxpayers tax planning also encompasses the decisions concerning the magnitude of the conducted business activities. Tax regulations stipulate various forms of settlements for them. The costs of accounting activities according to those principles differ fundamentally. Exceeding the threshold of revenues (equivalent of 1 200 000 Euro) results in the duty of maintaining the accounting ledgers. The costs of implementing full accounting may be much higher than the profit achieved, which sometimes is just a one-time occurrence. For that reason many entities applying simplified forms of settlements plan exactly the levels of revenues generated in a given tax year and they are not interested in exceeding them, in particular if that could be of incidental character.

Given the complexity and variability of tax regulations, appropriate identification of the tax consequences is not always a simple task, e.g. the rules concerning the VAT reimbursement for those starting a business represent a relatively complex issue and some issues are interpreted in various ways (e.g. the right to reimbursement of the VAT prior to the registration). Appropriate identification of the times and amounts of the VAT reimbursement will allow effective planning of the cash flows and the ultimate costs of investment projects (INIEWSKI, NIKOŃCZYK 2011, p. 5).

The tax audit can be a helpful instrument in tax planning. Within the frameworks of the audit the complex analysis of correctness of tax settlements is conducted. The audit results allow implementing and designing a specific tax plan that indicates the possible directions of optimisation, methods of limiting and eliminating the tax risks or the methods for improving the financial liquidity.

Tax planning is frequently applied by taxpayers incidentally. In case of larger transactions planning of just a segment of activities without the detailed knowledge of the entire activity may lead to consequences opposite to the intended ones. Effective planning should be a continual process conducted with consideration for the market situation, development plans or changes in tax regulations.

Tax planning in the narrow sense means conducting material operations in a way allowing application of the possibilities for minimisation of tax burdens provided by the law. The typical issues considered within the frameworks of tax planning include: tax losses management, liquidity management, taxation on restructuring or transformation operations, mergers, divisions and contributions in commercial companies.

Tax planning is not only minimising the tax burdens but also elimination or assessment of the potential risk level. For many entrepreneurs the stability and predictability of business and legal environment represent the true value. Sometimes considering the differences in decisions and interpretations given by bodies of administration the taxpayers decide to opt for the transaction model that involves higher taxation but offers high level of certainty concerning the profit generated.

In the science of tax law and in the jurisprudence applied by tax administration bodies and courts of administration the debate on legality of tax planning leading to a decrease in the tax burden has continued for years. According to Prof. Z. Radwański “there is no legal base to assume the masochistic principle that the parties should always regulate their civil-legal relations in the way most beneficial to the fiscal system” (RADWAŃSKI 2000).

Tax optimisation

The choice of the form and structure of transaction, within the frameworks and limits of the effective tax law, aiming at decreasing the tax burdens level is defined as tax optimisation (KUDERT, JAMROŻY 2007).

Narrow understanding of tax evasion is understood as bypassing the tax law and the method that is applied to prevent that phenomenon is the tax bypassing clause. In this context the term of legal use of gaps in the tax law is also applied (KARWAT 2003).

The sources of tax optimisation are to (KUDERT, JAMROŹY 2007, p. 23):

1. The right of choice – the legislator consciously established the choice of a specific method of taxation between the general rules and lump sum taxation, choice between the linear rate and progressive rate or the choice of a given method of depreciation. Similar options are provided in case of the indirect taxes. For example, the taxpayer may choose between entity exemption (a small taxpayer to the limit of 150,000 PLN, a farmer lump sum tax without a limit) and the general principles of the tax on goods and services. The right of choice also applies to the settlement periods, shift of the tax year or the intervals at which we pay the tax advances. All tax decisions should be preceded by appropriate calculation of benefits.

2. The discretionary freedoms – we deal with discretionary freedoms when providing or determining the exact values is not possible. The example here are all the tax regulations that provide for value estimation (valuation) of a given component of assets. The taxpayer may usually determine the market value of the object by means of one of the methods allowed by the regulations – the valuation method or the comparative methods. The method chosen may influence the object value and, as a consequence, the amount of tax.

3. The stimulating norms – the stimulating function of taxes means encouraging the taxpayers to specified behaviours. Tax regulations allow application of tax credits leading to decreasing the tax burdens that is making deductions from the taxation base or deductions from the income tax.

4. The development of the actual or legal situation – the same behaviours may actually result in different legal consequences, e.g. two persons performing actually the same job may be employed on the base of employment contract or provide a service on the base of a civil-legal contract. From the perspective of the regulations on the income tax those persons may achieve revenues from different sources: the employment relation, personal activity or non-agricultural business activity. From the economic perspective financing a capital company by its shareholder through own capital or through a long-term loan is almost equivalent while the tax on remuneration obtained from that (dividend and interest) is different.

5. Changes in regulations – the legislator, planning changes in the regulations concerning the principles of settlements or the taxation level, provides the possibility of optimisation by including a given transaction to the settlement period prior or post the change. In case of an increase in the income tax rate the taxpayers are interested in generating the income earlier and subjecting it to taxation using the lower tax rate while in the opposite situation they are willing to put off the sales so that it can be accounted for during the consecutive year and taxed by applying the lower rate.

The aim of the enterprise may also be to achieve simultaneous maximisation of profit and minimisation of income tax burden as the tax amount increases with the profit level. That is why the “maximisation of profit after tax” should be the actual objective of optimisation (KUDERT, JAMROŻY 2007, p. 25).

Tax risk

The tax risk is a special type of business risk related to both application of certain sanctions and suboptimal control of expenditures. The nature of that risk is represented by the lack of certainty concerning tax consequences of the completed, current or future business transactions. It results from the measures undertaken in the tax environment and in the enterprise as well as negligence in the field of entity regulation and decisions. It is understood in most cases as the risk of appearance of an error, delay in tax settlements or appearance of irregularities exposing the taxpayer to tax arrears and interest or eventual penalties related to it.

Tax risk management means taking actions aimed at identification, assessment and control of the risk as well as control of the measures employed. The elimination or limitation of risk and protection against its consequences represent the objective of the tax risk management (NADOLSKA 2006). Types of tax risk sources are presented in table 1.

The results of surveys concerning the tax risk conducted by Ernst & Young and the Centre for Tax Documentation and Studies in Łódź in Poland in 2005 covering 170 Polish companies are as follows:

- the level of tax risk in Poland increases and is higher than in other countries,
- tax risk management is an increasingly important element in the financial policies of companies,
- self-evaluation of the tax policy conducted is higher than the conclusions from the detailed evaluation of individual functions,
- “human factor” based tax policies that, however, do not consider employees from outside the finance department,
- absence of written tax procedures,
- low evaluation of the IT systems role in tax risk management,
- tax risk management is of fundamental importance for company reputation and its governance,
- effective tax risk management is the most important criterion for evaluation of the directors for tax issues – the traditional criteria such as management of tax cash flows of the effective tax rate are of secondary importance,

Table 1

Types of tax risk sources

Tax risk sources	
internal	external
1. Sources concerning resources <ul style="list-style-type: none"> – insufficient knowledge or employees – errors in IT systems or absence of appropriate systems – not using tax advisory services 2. Sources concerning organisation and procedures: <ul style="list-style-type: none"> – unclear or not defined division of tasks among employees (departments) – absence of internal tax procedures 3. Sources concerning communication: <ul style="list-style-type: none"> – limited influence of the financial department on planning of transactions and format of contracts – absence of the exchange of information and documents among employees (departments) – lack of collaboration between the tax advisor (financial department) and the legal advisor (legal department) 	1. In the legislation development area: <ul style="list-style-type: none"> – high variability of tax regulations – complicated and unclear tax regulations, legal gaps in regulations – inappropriate implementation of the EU directives in the domestic tax regulations – changes of regulations in linked areas 2. In the law application area: <ul style="list-style-type: none"> – differences in the decisions by tax and fiscal administration bodies – change of trends in jurisprudence concerning the official interpretations – pro-fiscal approach of tax and fiscal authorities – differences in the decisions by courts of administration – differences between decisions by tax and fiscal administration bodies and decisions by courts – not applying the principle of direct application of the EU directives by the tax and fiscal administration bodies – application by bodies of administration and courts of the judiciary concept of bypassing the tax law – lack of jurisprudence after amendment of regulations

Source: own work based on INIEWSKI, NIKOŃCZYK 2011. pp. 32–33.

– Polish entrepreneurs devote too much time to routine operations related to tax settlements and too little time to tax risk management (NADOLSKA 2006).

The following can be considered the main tax risk management components:

- using tax advisory services.
- implementation of appropriate procedures in internal communication, documentation and maintenance of documents,
- implementation of the appropriate IT system,
- monitoring of changes in regulations and decisions by tax authorities and courts (NADOLSKA 2006).

A conscious taxpayer should also consider the risk of litigation and costs of litigation, the risk of the verdict and the risk related to differences in jurisprudence in evaluation of the tax risk.

Tax risk management instruments

Individual interpretations

The official interpretations of tax regulations represent now one of the main tax risk minimisation instruments. The format of the institution of the official interpretations has been subject to changes over the year – starting with the “unofficial letters by the Ministry of Finance”, through the official “written interpretation concerning the scope and method of application of tax law regulations” provided in the form of a decision and ending with the current text of the regulations governing the individual interpretations.

As of 1.01.2005, individual interpretations started protecting the taxpayer to the full extent. Initially the interpretations were binding to the bodies that issued them. Currently the key aspect is not so much the “binding” character for the bodies but the protection of the taxpayer, although the name “binding interpretation” is still commonly used. Implementation of full protection was the effect of the extensive activities undertaken by the Tax Board of the Polish Confederation of Private Employers Lewiatan.

The individual interpretations are issued on the base of the Regulation by the Minister of Finance on authorising issuance of interpretations of the tax law regulations of the 20th of June 2007 (DzU 2007 nr. 112, poz. 770), according to which the Directors of Tax Chambers in: Bydgoszcz, Katowice, Poznań, Łódź and Warsaw were authorised to issue, on behalf of the Minister of Finance, the individual interpretations specifying the scope of authorisation and the local and material competence of the authorised bodies (*Ordynacja podatkowa. Źródła i wykładnia prawa podatkowego...* 2010, p. 65).

Interested persons, if the question concerns their individual case, that is taxpayers, payers, collectors as well as third persons (e.g. future taxpayers, i.e. persons planning establishment of a company or foreign entrepreneurs planning establishment of a branch or representative office) are the entities eligible to apply for an interpretation (INIEWSKI, NIKOŃCZYK 2011, p. 37).

In the application for the individual interpretation the existing actual situation or the future event should be presented exhaustively and completely. Appropriate description of the actual situation requires knowledge of the regulations for interpretation of which we apply to avoid neglecting any elements of the actual situation that could influence taxation and scope of protection. According to the regulations, the application should also present the applicant’s position concerning the legal evaluation of the actual situation. Professionally and precisely supported position is of major importance, because there is a possibility to persuade the body to issue the “decision” favourable to the taxpayer.

If the application does not satisfy the formal requirements (the above-indicated elements), of the fee of PLN 40 is not paid within 7 days as of lodging the application, the application will not be considered.

The body of administration may relinquish presenting the legal reasons for the interpretation if it shares the opinion of the applicant. In case of negative opinion on the position of the applicant the individual interpretation contains the appropriate position with presentation of the legal reasons for it.

The individual interpretation shall be issued not later than within 3 months as of receipt of the application. That time does not include, e.g. the periods given for complementing the application or the delay on the side of the taxpayer. If the interpretation is not issued within the above time it is considered that on the day following the day on which the time for issuing it expired the interpretation confirming correctness of the position by the applicant to its full scope (so-called silent interpretation) was issued.

Full protection of the taxpayer is due when the application for providing the interpretation the taxpayer requests concerns the future event so distant that it will take place only after service of the interpretation. If the taxpayer enquires about the event that is future, current of that takes place in the near future the taxpayer protection is limited to absence of penal fiscal sanctions and interest for arrears. If the taxpayer enquires as concerns the actual situation that in his enterprise occurs as a permanent and repeated situation and the body of administration confirms his interpretation than only after receipt of the interpretation he may apply the tax regulations in the way specified in the application. Transactions or actions that took place before receipt of the interpretation are burdened with the risk that in the future as the result of control activities (as a result of which it can be changed) the duty of paying the tax in arrears (without interest) can be established (INIEWSKI, NIKOŃCZYK 2011, p. 40).

The individual interpretations, together with the application for issuance of the interpretation, after removing the data identifying the applicant and other entities indicated in the text of the interpretation are published in the *Biuletyn Informacji Publicznej* [Bulletin of Public Information], on the Ministry of Finance website. Careful and in depth analysis of the interpretations published provides knowledge on the interpretation of specific regulations by the tax authorities, which represents a useful instrument of tax planning and building tax strategies.

The interpretation protects the applicant only; it does not protect either a contractor, partner or family member, even if the actual situation and the method of applying the regulations is the same. Every person or entity participating in the transaction or in conducting business activity should lodge the application for providing the interpretation individually.

The individual interpretations are used frequently where the formal consultations with the officials could suffice. On all the minor issues, supported by the jurisprudence line applied by the courts, frequently obvious, the taxpayers should rely on such consultations without engaging the bodies in a relatively complex “interpretation” procedure (FILIPCZYK 2011, p. 162). Promotion of individual contacts in cases that because of their “low weight” do not require application of formalised procedures would allow the interpretation bodies concentration on complex issues that, thanks to that, could be determined in a more considerate and fully aware way.

The fee for consideration of the application was set at the level making the necessity of paying it no obstacle for any taxpayer that would be interested in receiving an answer to the enquiry of importance for his tax settlement according to the “interpretation” procedure. The level of that fee does not depend on either the degree of the legal issue complexity or the value of transaction, which the question concerns.

The fee dependent on the transaction value (the tax risk involved in it) and as a consequence reaching significant levels functions, e.g. in Germany. In case it is impossible to define that risk the cost is determined by the time devoted for the interpretation (EUR 50 per half an hour of work, but not less than EUR 100 for the interpretation). On the other hand, in the countries where involvement of tax administration resources in the interpretation proceedings is significant, issuance of individual interpretations is free (Spain, The Netherlands, Luxembourg, Cyprus) (FILIPCZYK 2011, pp. 151, 155).

Explanations by the National Tax Information Service

Taxpayers may obtain information on correct ways of tax settlements through the infoline of the National Tax Information Service established on the 3rd of July 2006 on the base of the Regulation No. 13 by the Minister of Finance on organisation of tax offices and chambers and instituting their charters of the 13th of June 2006 (Official Journal of the Ministry of Finance No 7, item 55 as amended). The Service operates on the base of the Offices of the National Tax Information Service situated in Bielsko-Biała, Leszno, Płock and Toruń.

Taxpayers make mass use of the possibility of obtaining explanations on the contents of the tax law regulations by telephone from the National Tax Information Service. As of the 3rd of July 2006, i.e. the moment of establishment of the Service, until the end of May 2011, the total number of as many as 5,882,840 enquiries has been recorded. The number of questions asked by taxpayers during the entire period of operation of the Service is presented in

Table 2
Number of questions from the taxpayers within the telephone consultations provided by the infoline of the National Tax Information Service concerning the PIT, year settlements, CIT, VAT, excise and e-returns during the years 2006–2011

Subject of questions	Year					
	2006	2007	2008	2009	2010	2011
VAT	54 469	323 306	497 248	605 210	664 556	303 307
PIT	54 177	422 895	631 199	548 796	553 520	193 056
Year settlements	–	–	–	146 788	155 934	156 841
CIT	10 886	80 757	104 903	115 617	113 242	54 936
Excise	–	–	251	9 193	6 543	3 254
e-return	–	–	4 342	5 697	10 279	8 663
Total	119 532	826 958	1 237 943	1 431 301	1 504 074	763 032

Source: own work based on the Reports from operation of the National Tax Information Service 2006–2008, 2009, 2010, January, February, March, April, May 2011, www.mf.gov.pl/_files_/kip/statystyki

Table 2. Mass character and rapid increase of the telephone consultations provided by the Service year by year can be noticed.

As of 2008, the National Tax Information Service started providing explanations on the excise tax and e-return, and as of 2009 it has also opened the infoline devoted especially to the year settlements of the PIT. As of 2011, another subject of enquiries concerning the tax on civil-legal transactions, the PCC has also emerged. The number of questions in that area was at the similar levels during the consecutive months: in January 7613, in February 8292 in March 9585, in April 8524 and in May 8961.

The highest numbers of questions concerning the PIT, year settlements and e-declarations comes in April when the deadline for filing the year tax statements is coming. In case of the CIT the end of that period comes in March and as a consequence the largest number of questions in that area was recorded during that month. Questions concerning the VAT, excise and the PCC maintained similar levels during the individual months.

In practice both the courts and the Ministry of Finance marginalise the validity of explanations provided on the infoline by consultants. Proving that the taxpayer actually received the specific information may encounter significant difficulties as concerns the evidence. Recording of the conversation would be the simplest method; however, it is difficult because it would require consent by the parties talking. That situation makes conscious taxpayers that want to obtain full protection to apply for the individual interpretation.

General interpretations

The Minister of Finance may also issue general interpretations. He issues them *ex officio* without a taxpayer's application when he considers it appropriate. General interpretations are published in the Official Journal of the Minister of Finance and in the Bulletin of Public Information. The publication date is of the same effect as service of the individual interpretation.

The general interpretations are few. General interpretations are not available for many tax problems important in practical terms. The actual situations to which those interpretations refer are outlined in them in arbitrary and general ways. In economic practice the actual circumstances appear in non-standard configurations and deviations from the situation described in the general interpretation appear. As a consequence obtaining the response fully "adjusted" to the specific issue is required (FILIPCZYK 2011, p. 28).

Applications for establishing overpayment

To eliminate the tax arrears risk it is prudential to first pay the amount that the doubts concerning interpretation apply to as the tax (prudential measure) and then to apply with the application for establishing tax overpayment concerning that situation. This is not an ideal solution, nevertheless, because that instrument may be applied only *a posteriori* that is after performance of the operation. The taxpayer may not change the business plan or target or choose another development of his economic relations.

The analysed solution requires freezing, frequently significant, funds, which influences the financial liquidity of the entrepreneur. The "overpayment" procedure usually takes longer than proceedings for issuance of the individual interpretation and is highly complex as concerns the procedure. It also frequently involves bearing higher costs, particularly for the court registration fees (in this case we will have the ordinary proportional fee while in the cases concerning interpretation the fixed registration fee is paid) (FILIPCZYK 2011, p. 161).

Application of that instrument may result in control of the tax accounting to the extent exceeding the issue covered by the application for establishing overpayment, which represents the additional risk. Based on the experience it can be concluded that the awareness of the tax being already paid may influence the attitude of the tax authorities and even courts of administration with the negative influence on the chances for winning the litigation.

Still, however, in many cases the recommended path of proceeding may assume applying the application for establishing overpayment. This happens, in particular, in the situation when considering the circumstances of the case even the positive "interpretational" solution would have to be then comple-

mented by such an application. Employing that method is also recommended in case of a significant risk of incorrectness of the preferred method of tax settlement.

Summary and Conclusions

The magnitude and diversity as well as mutual influences of the tax risk sources causes that the entrepreneur is unable to eliminate the tax risk imbedded in the activity he is conducting entirely. With no influence on the external factors, the entrepreneur should employ all the measures possible to prevent its internal sources.

The group of tax risk management instruments that require collaboration with the fiscal administration includes the individual interpretations, explanations by the National Tax Information Service, general interpretations and applications for establishing overpayment.

Among the above instruments the individual interpretations are used the most frequently. According to the data obtained from the Ministry of Finance, between the 1st of July 2007 and the 17th of September 2010 the bodies authorised by the Minister of Finance issued 78 567 interpretations in total. The number of interpretations increases year by year (from the 1st of July 2007 until the 31st of December 2007 – 4406, in 2008 – 24 214, in 2009 – 28 152, in 2010 by the 17th of September – 21 795 interpretations were issued).

Skilful use of individual interpretations as the tax risk management instrument is difficult. However, possessing such skills represents the condition for the taxpayers and their advisors to find the right place in the difficult reality of the Polish tax law. Thanks to the individual interpretations it is possible to survive in that reality (FILIPCZYK 2011, p. 165).

The Polish model of written individual interpretations of tax law is immensely popular and applied in mass scale in practice. It represents a measure for mitigating the consequences of ambiguities in the tax law. The individual interpretations are used frequently where informal consultations with officials could well suffice. In all the minor issues, supported by the line of jurisprudence by the courts, obvious as concerns the facts, the taxpayers should rely on such consultations without involving themselves and the bodies in the relatively complex “interpretational” procedure. The current position of the courts of administration encourages searching for protection of own interests in the formal procedure in every case.

It is worth noticing that currently, in the interpretational proceedings the minor and the major cases, easy and difficult, are treated in the same way as concerns the input of the efforts and means. Popularisation of informal contacts in easy cases would allow the interpretational bodies focusing on the

complex issues. It should also be noted that the low fee for consideration of the application on one hand allows general access of the taxpayers to obtaining the “interpretational” response while on the other the issues solving which is both complex and causes significant financial consequences for the State budget should not drown in the flood of trivial questions.

From year to year, the infoline of the National Tax Information Service is becoming an increasingly popular instrument used in tax risk management. During 6 years of its operation it has provided almost 6 million telephone consultations. The scope of advisory services provided has been expanded and next to the questions concerning the VAT, PIT and CIT the questions concerning the excise tax and the tax on the civil-legal transactions were added in 2008. However, as a consequence of absence of the evidence of the consultation provided the taxpayers that want to obtain full protection still apply for individual interpretations.

The institution of general interpretations is employed insufficiently. Such interpretations are issued rarely and in their contents the Ministry of Finance frequently takes the line unfavourable to the taxpayers.

The application for establishing overpayment is also used rather infrequently. This is related to a number of serious defects of that instrument. Overpayment of a tax requires freezing the funds, may result in the control of the entire business by the tax authorities, the taxpayer may not change the business plan while the “overpayment” proceedings take longer and is more complex than the individual interpretation.

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