Financial Law Review

No. 11 (3)/2018
quarterly

UNIVERSITY OF GDAŃSK • MASARYK UNIVERSITY • PAVEL JOZEF ŠAFÁRIK UNIVERSITY • UNIVERSITY OF VORONEZH
http://www.ejournals.eu/FLR

TAX AVOIDANCE AND THE ETHICAL STATUS OF STATE'S ACTIONS IN THE FIGHT AGAINST IT

*KRZYSZTOF R. WOŹNIAK**

Abstract

The article delineates the ethical value of tax avoidance and, contrastingly, the regulations towards preventing such actions. Presenting this phenomenon, the author seeks its assessment and evaluates the actions of the state and its organs aiming at tax avoidance. The general anti-abuse clause is crowning the anti-tax avoidance methods; its character is – simplistically put – similar to legal analogy. Moreover, *zasada władztwa daninowego* (the principle according to which the state has the possibility to impose taxes by way of legislation) regulated by Article 217 in conjunction with Article 84 of the Polish Constitution allows the tax obligation to be expressed statutorily – it refers to the subject, object and tax rates. Tax provisions may be used to tax some occurrences (subjectively, the provisions are used by tax authorities) by legal fiction; it is possible by employing the aforementioned clause. Essentially, tax law is perceived a field of law in which applying analogy is impermissible. There is a common view according to which it is non-allowable to use analogy to the taxpayer's disadvantage, even if it led to the infringement of the principle of fair taxation. Tax avoidance is the use of legal methods which are not accepted by the state, whereas the negative assessment of tax avoidance results from the taxpayer's actions, that is purposeful decrease of financial contribution to the common good, i.e. the state. Simultaneously, the state uses all available methods of countering tax avoidance, at the same time leaving the taxpayer's interest and other ethical values in the background.

* Doctoral student, Department of Financial Law at the University of Gdańsk, e-mail: randall.rubber@gmail.com

Key words

ethical status of tax avoidance, general anti-avoidance rule, analogy in tax law

Introduction

Marcus Tullius Cicero pointed out that sometimes in exercising the law *existunt etiam saepe iniuriae calumnia quadam et nimis callida sed malilliosa iuris interpretatione*, that is the harm results from some kind of garbling or too profound and malicious interpretation of law [Cicero, 1960: 343-344; Karolak, 2007]. This "profound" and "malicious interpretation" of law is an essence of tax avoidance by the taxpayers, and we may see a similar attitude in the state methods of fighting this occurrence. Each party of this peculiar game wants to lose as little as possible, and each "player" uses methods which are far from fair-play.

Tax avoidance – an attempt to define

Tax avoidance consists in "reduction or limiting of tax burdens by means and methods accepted by law" [Gomułowicz, Małecki, 1998: 170]. It is an optimization action which enables to get tax savings. This notion is often

identified with using legal loopholes in order to optimize the tax[Sialanie, 2003: 153] (and this statement is quite right). Tax optimisation is understood by actions "aiming and minimising the tax burdens by such a choice of legal transactions and such a choice of tax policy instruments which ensures the decrease of cumulative tax burdens, thereby maximisation of net profit"[Dymek, 2006: 11]. Tax avoidance is "a legal method of decreasing tax obligations which are contrary to tax fraud and tax evasion"[Stiglitz, [2004: 817]. The Anglo-Saxon states doctrine prevalently adopts the three-element classification of taxpayers' actions aiming at the reduction of tax burden: tax planning – tax avoidance – tax evasion [Brzeziński, 1996: 9]. Polish literature often introduces terms like: illegal tax evasion, aggressive tax optimisation or circumvention of law, however, these terms "cloud" the term of tax avoidance which is legal and not accepted by the state. Additionally, preventing tax avoidance is a natural and obvious defensive action against budget revenue breakdown. Similarly, in practice, the question of tax consequences of the taxpayer's actions (i.a. choosing the form of economic activity) is within his or her area of interest, particularly the question of minimising the tax burden. The method of tax law interpretation by the courts is also significant; the more importance the courts attach to linguistic interpretation, the greater

chances the taxpayers have to look for possible ways of tax avoidance [Brzeziński, 2012: 683]. Tax avoidance is a kind of tax optimisation called "aggressive" in order to differentiate it from the permissible optimisation. Moreover, tax optimisation is an element of tax planning. Speaking about "illegal tax avoidance" is a logical mistake, as tax avoidance is – as proved above – always legal (tax evasion is, on the other hand, illegal).

"Circumventing the law" is another notion embracing certain occurrence created in a perennial attempt of the exchequer to catch the fleeing money; it consists in using civil constructions circumventing the law to tax factual circumstances, manifested in so called "economic interpretation", and is basically performed by tax authorities and courts *contra legem* – without a legal basis [Supreme Administrative Court: FSA 3/03].

Tax avoidance and common weal

Regardless of the material and formal legal guarantees, the taxpayer is always weaker than public authorities. Therefore, taxation must be formed in a way that its fiscal function respects the economic and social situation of the taxpayer. The taxpayer, on the other hand, is an entity having the same rights as the state, and it is the taxpayer who gives mandate to the legislature. Tax obligations must embody the basic idea of social order, that is the state should be treated as a benefit of all citizens. The taxpayer's attitude towards tax obligations ethical value is crucial when it comes to fulfilling these obligations. Honouring tax obligations is closely related to the assessment of law by the taxpayer. Negative perception of tax obligation "justifies" treating tax avoidance as a purpose itself. Tax law creates many opportunities for conscious and purposeful interference in social and economic relations. This interference must be subject to ethical assessment, as fulfilling tax obligations directly influences the individual. Public tasks financing is in the general interest of the society and simultaneously justifies the obligations of individuals being part of the society, and thus bearing the burden. It is also the reason for levying taxes. Reliability in fulfilling tax obligations has two dimensions. The first, formal, is payment; the second is payment without any cheat [Gomułowicz, 2013: 22, 44, 80, 84, 85]. Also the aspect of solidarity is visible in fulfilling tax obligations reliably; the state is a common weal, so paying taxes "is an expression of solidarity with another human" [Filipowicz, 1997: 293]. At this point, we should invoke "Pięć lat kacetu" ("Five years in a concentration camp") and the method of saving energy while pushing a barrow with output in a death camp. One of the persons

pushing was only going through the motions; the other one was making double effort. We cannot charge such a behaviour, as saving energy meant longer life which is the greatest value for everyone. However, it was at the sacrifice of another human. Common weal means joint effort, and the example given may be only understood in extreme life-threatening situations. Tax avoidance has probably similar character, as it is legal but not accepted by the state.

Tax avoidance and fair taxation

A perfect situation that the state should aspire to while refining the tax system was defined by Bogumił Brzeziński who uses a term "adequate tax burden". Following the proposed descriptive definition of the notion, tax burden is adequate when the taxpayer pays a tax in the amount which corresponds to general premises of tax structure, and at the same time including the tax credits and exemptions he or she may be subject to. Adequate tax does not necessarily have to be fair or based on equal treatment of the taxpayers; if the legal provisions illegitimately differentiate the situation of two categories of taxpayers, from the point of view of adequacy criterion, both categories are taxed adequately [Brzeziński, 2002: 90]. Such an attitude may seem to lack "fairness", but it must be concluded with the words of the householder from the "Parable of the workers in the vineyard": "Friend, I am doing you no wrong. Did you not agree with me for a denarius? Take what belongs to you and go. I choose to give to this last worker as I give to you. Am I not allowed to do what I choose with what belongs to me?" [Matthew 20, 1-16]. We could perversely say that we should also "seek the Kingdom of Heaven" in tax law. However, the high ideals only determine goals; their fulfilment in the reality of budgetary needs is done by "tax collectors". Even Saint John the Baptist gave the specific advice to the tax collectors who came to be baptised and asked "Teacher, what shall we do?": "Collect no more than you are authorized to do" [Luke 3, 12-13].

The most radical idea of justice (however not rational) is the idea of perfect equality [Ziembiński, 1981, 1992]. Equal treatment should mean the taxpayers carry equal burden. The formal aspect of this horizontal justice means that equal persons should be equally treated. Thereby horizontal justice embraces generalness and evenness of taxation. Generalness means that all people without any difference must be obliged to fulfil tax duty if one of the legal premises for imposing tax obligation is met. Evenness means that the taxpayers operating in the same conditions in terms of taxes are treated evenly in tax matters [Gomułowicz, 2013: 55].

In the aspect of tax obligation subject matter, the dilemma related to respecting the idea of tax justice pertains to – simply put – the problem of tax limits [Libicki, 1936: 35]. If abided by the legislator, the idea of tax justice leads to legitimation of state's tax authority and is conducive to shaping desired attitudes towards the idea of tax obligation [Gomułowicz, 2013: 38]. The idea of tax justice is vital while shaping the subject matter of tax obligation, since it indicates not only how to solve the conflicts between the public interest and individual interest, but also justifies the need of solving these conflicts to find the key to spread the tax burden [Gołuchowski, 1997: 5 et al.; 1999; Gliniecka, Harasimowicz, 1997: 1 et al.].

The quality of legislation and the tax system

As a rule, the level of tax burden is perceived differently by the legislator – pressured by the public tasks financing – and by the taxpayer, who perceives taxes and assesses them primarily through the prism of lost profits [Gomułowicz, 2013: 40]. Employing forms of economic activity more or less adequate to the economic phenomena is neither the subject of interest of the legislator, nor tax administration, as long as it does not lead to the decrease of tax burden below the level considered adequate. The legislator, aware of the possibility of minimising or even eliminating taxation, creates specific tax provisions in order to "neutralise" the taxpayer's actions. This way, the tax purpose is achieved, namely irrespective of the legal form the taxpayer uses for his or her economic activity, taxation is adequate. The combat with tax avoidance in the aforementioned way, "step by step", is the easiest and most transparent strategy for law users, however, with relatively high fallibility.

In order to properly fulfil its functions, law needs to have a determined, relatively high level of comprehensibility. It may be reached by formulating (coding) legal provisions which are adequate to the legislator's intentions, and reading the legal text (decoding) in order to determine the legal norms it contains [Brzeziński, 2002: 6]. Tax law system should be a closed one, and tax obligations of the taxpayer should unambiguously stem from tax law provisions, both as regards their scope and contents. Meanwhile, the level of tax regulations is so poor that the doctrine describes even a peculiar tax "conglomerate" and not a system realising the postulated ideas or a concept of a coherent tax model [Drywa, 2015: 46; Mastalski, 2000: 40]. Knowledge is also a premise of the quality of tax legislature; particularly knowledge of social and economic issues concerning the matters embraced by legislative process [Modzelewski, 2012: 482]; knowledge that is often lacking.

The principle of the specificity of legal provisions creates a responsibility that every provision is properly designed as far as the language and logics are concerned. The requirement of clarity refers to the imperative of creating clear and understandable provisions [Gronowski, 1998: 93 et al.; Brzeziński, 2003: 251-259; 2009: 96-106]. The taxpayer has to read and understand the legal text in order to adhere to it. It is then possible to legitimately assume that the legislator is obliged to create sufficiently clear law. There is an idealising assumption that the legislator is a rational user of language, so while formulating legal provisions, the legislator gives certain, reasonably unambiguous rules to be followed to the addressees. The specificity of legal provisions principle is a component of the principle of trust to the state and positive law; this principle is concretised in this economic sphere by the requirement of statutorily determining basic structural elements of taxes and other public levies. This determinacy acquires great significance in the sphere of levy relations in which the citizen is particularly exposed to confrontation with the domineering actions of public authorities [Polish Constitutional Tribunal: K 19/99].

Formulating tax legal provisions precisely and clearly means logical rulemaking, simultaneously keeping proper axiological standards.

In its past rulings, the Constitutional Tribunal consequently expresses a view according to which the prescription for the legislator to observe the rules of proper legislation stems from the rule of law principle formulated in Article 2 of the Constitution. "This prescription is functionally related to the principle of legal certainty and legal security as well as protection of trust to the state and law. These principles are particularly significant in the sphere of rights and freedoms of humans and citizens. (…) unclear and unprecise wording of a provision that causes uncertainty as regards its addressees, their rights and obligations should be perceived an infringement of constitutional requirements. Such a situation creates too wide frames to use for the authorities using such a provision; the authorities who, in fact, have to substitute for the legislator in terms of unclear and unprecise regulations. By unclear wording of the provisions, the legislator cannot give the authorities obliged to use them too much freedom as regards determining in practice the subjective and objective scope of constitutional limiting of individual rights and freedoms. This assumption can be generally described as a principle of determinacy of statutory interference in the constitutional freedoms and rights. Following this principle, the Constitutional Tribunal presents a position that exceeding a certain level of provisions vagueness may be an independent premise

for finding their inconsistency both with the provision requiring statutory regulation of a given field (for example restrictions on using constitutional freedoms and rights – Article 31 Section 3 Sentence 1 of the Constitution) and the rule of law expressed in Article 2 of the Constitution. Making unclear, ambiguous provisions which do not let the citizen foresee the legal consequences of his or her actions is an infringement of Constitution" [Constitutional Tribunal: K 6/02].

One amendment and a great step towards a "change"

Leaving the problem of tax law quality at the margin of legislative actions, the legislator introduced a general clause against tax avoidance by the Act of 13 May 2016 amending the Tax Ordinance Act and certain other acts. We may wail over introducing a general clause against tax avoidance to Polish legal system and say that "Like a roaring lion and a charging bear is a wicked ruler over poor people" [Proverbs 28, 15], however, the general clause against tax avoidance introduced to Polish tax system means abandoning formal equality in taxation in favour of equal chances in the economic game.

Usually, the state's reaction on "artificial constructs" aiming at tax avoidance is late. The general clause against tax avoidance is supposed to be a remedy for this problem; in principle, it allowed for real-time reaction to the taxpayers "run-around". It does not require starting a legislative process and creating detailed regulations that fill the legal loopholes used by "resourceful" taxpayers who reduce their tax burdens.

Article 119a § 1 of the Tax Ordinance Act defines tax avoidance; according to this definition, "the act undertook primarily in order to achieve tax benefit which is contrary to the object and purpose of tax act does not result in tax benefit if the mode of action was artificial". Firstly, employing the clause consists in repeal (nullification, dishonour, refusal of acknowledgement) of tax benefit which does not result in achieving financial gain (Article 119a § 1 of the Tax Ordinance Act). Secondly, employing the clause consists in deconstruction of the act by its reclassification (Article 119 § 2-4) or neutralisation (Article 119 § 5 of the Tax Ordinance Act) [Filipczyk, 2016]. The Head of the National Revenue Administration is the only authority entitled to employing the general clause against tax avoidance (Article 119g et seq.). In this paper, we will limit the considerations to the "act reclassification" that consists in – in order to determine tax effects of this act – embracing the state of affairs that could happen if the "proper" action was done, as "act neutralisation" is a tax effect occurring while using the clause if the financial benefit

was the only purpose of the act. In such a situation, tax effects are determined on the grounds of the state of affairs that would occur if the action was not undertook (the action is eliminated from the tax legal actual state). Enumerated in § 1, in both aforementioned cases the result taking the form of "repeal" of the financial gain takes place if the action was "artificial". The "proper" action is the one that could be undertook by a person acting reasonably and pursuing lawful goals other than achieving tax benefit; so goals that would not be contrary to the object and purpose of tax act.

"Fiction" jeopardizing tax plans of the taxpayer

Limiting the deliberations to "act reclassification" stems from a specific character of intellectual operations that lead to producing tax effects from the presumed legal fiction. "Legal fiction" is a legal norm dictating to accept the sentence P1 with a certain, legally relevant factual circumstances S1 when the grounds of this sentence are unknown or do not exist. The actual existence of the factual circumstances is irrelevant for accepting the sentence P1" [Zajadło ed., 2007: 87].

Here, we should briefly discuss analogy in tax law. Legal inference *per analogiam* is based on the following rule: "significantly similar facts should involve the same (relatively similar) consequences" [Wróblewski, 1988: 280]. Differentiation between analogy of the act (*analogia legis*) and analogy of the law (*analogia iuris*) is common and legitimate. *Analogia legis* relates to a certain binding legal provision or a group of provisions. *Analogia iuris* refers to general rules or assumptions of a given legal system. It means that the person interpreting who uses this kind of analogy omits the legal rule and gives priority to less or more distinctly formulated general legal principle [Morawski 2002:295].

Application of law by using analogy consists in a certain algorithm of procedure, namely:

a) it is confirmed there are two categories of factual circumstances (let us assume A and B), whereas

b) it is confirmed that one of the categories (A) is under legal restriction, while (B) is legally indifferent,

c) it is assessed that situations falling under the category A and B are significantly similar,

d) it is assessed there is a need for regulating the situations which fall under the B category,

e) it is confirmed that there is no ban on using analogy,

f) it is assumed that there is an obligation to use a legal norm regulating A situation to B situation [Brzeziński, 2008: 125].

In Polish public law system there is no provision which directly bans using analogy [Smoktunowicz, 1997: 11]. At the same time, it should be highlighted that there is a common opinion against using analogy to the detriment of the taxpayer, even if it led to violating the principle of tax justice as a result of the legislator treating two essentially similar factual circumstances differently, possibly by accident. Despite the fact that this principle does not have any roots in positive law, it is an element of legal culture rooted in social consciousness. This principle concerns even a situation when using analogy enables fighting with tax avoidance [Brzeziński, 2008: 127]. Closing the legal loophole using *analogia legis* in material tax law substantially excludes Article 217 of the Polish Constitution. It provides that i.a. taxation, levying other public tributes, determining the subjects, objects of taxation and tax rates is performed by way of legislation. It unambiguously excludes the possibility of using analogy in this field.

In order to transpose the aforementioned to the considerations on the general clause against tax avoidance, it should be stated that the legislator circumvents the ban on using analogy in tax law. The structure of the clause is of *analogia legis* nature; it results in employing tax provisions embracing certain factual circumstances to "proper" circumstances. Situation A (subject to tax) is similar to situation B which is legally indifferent or resulting in lower tax. "It is estimated that there is a need of regulating the situations that fall under the B category" due to achieving tax benefit contrary to the subject and purpose of tax act. "It is assumed that there is an obligation to use a legal norm regulating A situation to B situation". The subject of taxation will be determined in tax procedure by the hegemon, that is the Head of the National Revenue Administration. As the reasons for the Constitutional Tribunal judgement of 1991 shows, "the state authority (…) may operate only when it is dictated or allowed by the act in a certain way. (…) each time the actions of the state authority must be legitimized by law, regardless of how important and substantively right the extra-legal motifs of these actions are" [K 11/90]. It must be made clear that the Head of the National Revenue Administration's action has a legal basis in Tax Ordinance Act, and the rest

is silence. The legality or illegality of certain actions is a consequence of the legislator's decisions [Baier, 1958: 178]. It is the legislator who determines the criteria of qualifying behaviours as legal or illegal. According to the legality principle, the public authorities are obliged to act on the basis of law and within the law. The legislator's freedom that regards shaping the content of tax obligation should be balanced by the necessity to respect the procedural aspects of democratic state under the rule of law [Constitutional Tribunal: SK 11/00]. The power of law may be discerned only in the equity of norms and its relation with axiology [Raz, 2000: 215].

Loyalty in the relations between the taxpayer and the state

The nature of tax law is related to the idea of loyalty towards this law, so also with the idea of the taxpayer's allegiance. If tax law requires authority, this authority has to stem from the law itself. It induces to pay attention to the problem of normative authority, and primarily the form and method of using the legislative power. The legislative authority must refer to the principles. It justifies the question of those principles catalogue and the content of those principles. The law-making procedure is thus significant [Gomułowicz, 2013: 65].

The principle of loyalty is one of these principles. It is often described as a principle of the taxpayer's trust to the state and codified law, and is based on legal certainty. This is a set of features of the law which purpose is to ensure legal safety to the taxpayer [Błaś, 2001: 201-204]. Loyalty means that the legislator respects the conditions enabling predictability of the state authorities' actions related to the taxpayer's behaviour [Żuławska, 1991: 105]. The loyalty should also evince itself in the taxpayer's possibility of both determining legal consequences of particular behaviours and occurrences (pursuant to current regulations) as well as expecting the legislator not to change the regulations high-handedly. If respected by the legislator, legal safety enables the taxpayer to predict the actions of the state bodies and forecast own economic, material and financial activities related to this predictability [Błaś, 2001: 210]. Avoiding the obligation to pay the tax means infringing the principle of loyalty towards the state and care for common good (Article 82 of the Constitution) [Sowiński, 2009]. The loyalty should be mutual. It is infringed by the legislator when the law gives too much freedom to the tax authorities that leads to discretion of decisions. Hence, the constitutional protection as part of the principle of loyalty should be also given to the method of law

interpretation while employing the law by tax authorities [Mastalski, 2005: 5-17; 2005: 33-38; 2008].

Summary

Negative assessment of tax avoidance stems from the character of the taxpayer's actions, that is a purposeful decrease of the financial input to the state – common good – by decreasing the tax burden of the person functioning within the state. Hence, this is a refusal to cooperate, to build social solidarity. One – but not the only – of the arguments for implementing the general anti-abuse clause is that its implementation prevents the taxation from eroding and increases the state's safety, that is the budget balance. Tax avoidance is legal, however, not accepted by the state as it is against "the spirit of laws" by taking advantage of the tax system weaknesses in order to achieve tax benefit. Another argument is the nature of tax avoidance, or its effect which is inadequate taxation; inadequate taxation happens when the taxpayer pays a smaller tax than the amount equal to the general principles of the tax construction, and thus differentiation of the taxpayers in the same actual situation. Simultaneously, the state makes use of every possible method to counteract tax avoidance; the methods are legal as constituted by the state itself, however, they have questionable axiological basis due to the fact they are reasoned by mainly economic purpose. At the same time, they leave the taxpayer's interest and other ethical values in the background.

Saint Paul told the Christians: "Would you have no fear of the one who is in authority? Then do what is good, and you will receive his approval" [Romans 13, 3]. Paying taxes is a duty, and fulfilling a duty does not equal getting an award. Tax obligation is a constraint – it limits the economic freedoms and rights of the taxpayer. Hence, it requires justification; the taxpayer should then accept to carry the tax burden by realising that they are a natural consequence of the affiliation to the state. The state is not ruled by a tyrant, however, it is one as far as tax obligation enforcement is concerned. Using a picturesque metaphor, the taxpayers are located in a cyclops cave, and we can easily suspect that there is always someone to deceive them. In order to break free (here: to take the tax burden out of himself), the taxpayer – Ulysses – prepares to fight with the settled order and – under the ram's stomach – gets out of the area under the cyclops control taking advantage of the cyclops'-state's blindness; blindness inflicted while the cyclops was not awake.

References

Baier, K.: The Moral Point of View, Ithaca, NY: Cornell University Press, 1958.

Błaś, A.: Zasada zaufania obywatela do państwa, in: Mastalski, R. (ed.): Księga Jubileuszowa Profesora Marka Mazurkiewicza. Studia z dziedziny prawa finansowego, prawa konstytucyjnego i ochrony środowiska, Wrocław: Oficyna Wydawnicza „Unimex", 2001.

Brzeziński, B.: Anglosaskie doktryny orzecznicze dotyczące unikania opodatkowania, Toruń: Wydawnictwo Uniwersytetu Mikołaja Kopernika, 1996.

Brzeziński, B.: Szkice z wykładni prawa podatkowego, Gdańsk: Ośrodek Doradztwa i Doskonalenia Kadr, 2002.

Brzeziński, B.: Rozstrzyganie wątpliwości na korzyść podatnika jako zasada wykładni prawa podatkowego. Próba analizy, in: Gomułowicz, A., Małecki J. (eds.) Ex iniuria non oritur ius. Księga pamiątkowa ku czci Profesora Wojciecha Łączkowskiego, Poznań: UAM, 2003.

Brzeziński, B.: Podstawy wykładni prawa podatkowego, Gdańsk: Ośrodek Doradztwa i Doskonalenia Kadr, 2008.

Brzeziński, B.: Przyczynek do analizy formalizmu prawa podatkowego, KPP no. 2 (2009).

Brzeziński, B.: Zagadnienie konstytucyjności klauzuli normatywnej zapobiegającej unikaniu opodatkowania in: Wróbel, W., Kardas, P., Sroka, T.: Państwo prawa i prawo karne. Księga Jubileuszowa Profesora Andrzeja Zolla, Warszawa: Wolters Kluwer Polska, 2012.

Cicero, M. T.: Pisma filozoficzne, v. 2, O państwie. O prawach. O powinnościach. O cnotach, Kraków: Państwowe Wydawnictwo Naukowe, 1960.

Drywa, A.: Prawotwórcza rola sądu administracyjnego – sposób na eliminowanie niedoskonałości prawa podatkowego, in: ed. Tarno, J., Bąkowski, T.: Prawotwórstwo sadów administracyjnych, Warszawa: LEX a Wolters Kluwer Business, 2015.

Dymek, M.: Optymalizacja podatkowa, czyli jak oszczędzić na podatku dochodowym od osób prawnych, Gdańsk: Ośrodek Doradztwa i Doskonalenia Kadr, 2006.

Filipczyk, H.: Stosowanie klauzuli ogólnej przeciwko unikaniu opodatkowania – zagadnienia wybrane, Monitor Podatkowy no. 7 (2016)

Filipowicz, A.: Chrześcijanin wobec podatków, Przegląd Powszechny no. 3 (1997)

Gliniecka, J.; Harasimowicz, J.: Z zagadnień teorii podatku, Glosa no. 5 (1997)

Gołuchowski, J.: Sprawiedliwość opodatkowania – założenia teoretyczne i możliwości aplikacyjne, in: Mujżel, J. (ed.).: System podatkowy. Stan, kierunki reformy, wpływ na wzrost gospodarczy, Warszawa: Rada Strategii Społ.-Gosp. przy Radzie Ministrów, 1999.

Gołuchowski, J.: Teoretyczne przesłanki podatku oraz systemu podatkowego w Polsce, Glosa, no. 1 (1997)

Gomułowicz, A., Małecki, J.: Podatki i prawo podatkowe. Dla studentów i praktyków, Poznań: Ars boni et aequi,1998.

Gomułowicz, A.: Podatki a etyka, Warszawa: LEX a Wolters Kluwer business, 2013.

Gronowski, W.: Język prawny i język prawniczy w polskim prawie podatkowym, in: Brzeziński, B. (ed.): Księga pamiątkowa ku czci Profesora Apoloniusza Kosteckiego. Studia z dziedziny prawa podatkowego, Toruń: TNOiK „Dom Organizatora", 1998.

Karolak, S.: Sprawiedliwość. Sens prawa: eseje, Kraków: Oficyna a Wolters Kluwer business, 2007.

Libicki, J.: Granice opodatkowania, Kraków: Towarzystwo Ekonomiczne, 1936.

Mastalski, R.: Polski system podatkowy oraz kierunki jego przekształceń in: Kostecki A. (ed.): Prawo finansowe i nauka prawa finansowego na przełomie wieków, Kraków: Kantor Wydawniczy „Zakamycze", 2000.

Mastalski, R.: Prawo podatkowe a gospodarka, RPEiS no. 3 (2005).

Mastalski, R.: Stanowienie prawa podatkowego a jego wykładnia i stosowanie w ramach porządku prawnego Unii Europejskiej, Prawo i Podatki, no. 2 (2005).

Mastalski, R.: Stosowanie prawa podatkowego, Warszawa: Oficyna a Wolters Kluwer business, 2008.

Modzelewski, W.: Patologie transformacji prawa podatkowego – refleksje dotyczące stanowienia prawa, in: Etel, L.,Tyniewicki, M. (eds.), Finanse publiczne i prawo finansowe. Realia i perspektywy zmian. Księga jubileuszowa dedykowana Profesorowi Eugeniuszowi Ruśkowskiemu, Białystok: TEMIDA2, 2012.

Morawski, L.: Wykładnia w orzecznictwie sądów, Toruń: TNOiK „Dom Organizatora", 2002.

Raz, J. Autorytet prawa. Eseje o prawie i moralności, Warszawa: Dom Wydawniczy ABC, 2000.

Sialanie, B.: The Ecomomics of Taxation, Massachusetts Institute of Technology, London: The MIT Press 2003.

Smoktunowicz, E.: Gloss to the judgement of the Supreme Administrative Court of 10 March 1994 (SA/Ka 1857/93), Glosa no. 3 (1997)

Sowiński, R.: Uchylanie się od opodatkowania – przyczyny, skutki i sposoby zapobiegania zjawisku, Poznań: Wydawnictwo Naukowe Uniwersytetu im. Adama Mickiewicza, 2009.

Stiglitz, J.: Ekonomia sektora publicznego, Warszawa: Wydawnictwo Naukowe Wydziału Zarządzania UW, 2004.

Wróblewski, J.: Sądowe stosowanie prawa, Warszawa: Państwowe Wydawnictwo Naukowe, 1988.

Zajadło, J. (ed.): Leksykon współczesnej teorii i filozofii prawa: 100 podstawowych pojęć, Warszawa: Wydawnictwo C. H. Beck, 2007.

Ziembiński, Z.: O pojmowaniu sprawiedliwości, Lublin: Daimonion, 1992.

Ziembiński, Z.: Związki między sprawiedliwością a równością, Etyka vol. 19 (1981)

Żuławska, C.: Gloss to the judgement of the Constitutional Tribunal of 14 December 1990, K 12/90, PiP no. 4 (1991)

Act on 29.08.1997 – Tax Ordinance Act (consolidated text: Journal of Laws of 2018, position 800 as amended)

Act on 13.05.2016 – amending the Tax Ordinance Act and certain other acts (Journal of Laws of 2016, position 846 as amended)

Judgement of the Polish Constitutional Tribunal of 13 February 2001, ref. no. K 19/99, Lex no. 46368

Judgement of the Polish Constitutional Tribunal of 22 May 2002, ref. no. K 6/02, Lex no. 56067

Judgement of the Supreme Administrative Court composed of additional judges of 24 November 2003, ref. no. FSA 3/03, Lex 110946

Judgement of the Polish Constitutional Tribunal of 3 January 1991, ref. no. K 11/90, Lex no. 25357

Judgement of the Polish Constitutional Tribunal of 14 September 2001, ref. no. K 11/00, Lex no. 49155