

Abstract in English

Abuse of law as a limit for tax planning

This thesis deals with the role of abuse of law concept in determining the limits of tax planning. The most significant topics addressed in this theses include the relationship between abuse of law and related concepts of circumvention of law and substance over form, acceptability of the subjective criterion of abuse, and the relationship between the abuse-of-law concept and teleological interpretation.

I conclude that abuse of law is a convenient term to label certain teleological interpretations. Subjective criterion focusing on scope, artificiality or rationality of the transaction or taxpayer's intent should not by itself lead to the conclusion of abuse. Abuse of law and circumvention of law are, despite their linguistic differentiation, so related that they can be described as two sides of the same coin. Finally, the substance-over-form concept, understood in the Czech legal doctrine as a separate concept, fulfills the criteria of abuse, and can therefore be considered as its subpart.