

Tax Avoidance and Prohibition of Abuse of Law in Relation to Transformations in the Czech Legal System

Abstract

This thesis focuses on a comprehensive analysis of tax optimization and the prohibition of abuse of law in relation to corporate transformations in the Czech legal system. The first part of the thesis defines the techniques of tax optimisation, such as tax reduction, tax deferral, reduction of administrative load and tax avoidance, and their differences from illegal practices, such as tax evasion or tax avoidance. Particular attention is paid to the institution of the prohibition of abuse of the law, which aims to penalise conduct that is apparently permitted but is intended to achieve an unlawful result and is directed against the intent and purpose of the legislation, and to the definition of the content of dissimulated legal conduct, as this is often confused with circumvention or abuse of the law.

The second part of the thesis focuses on the tax consequences of corporate transformations in terms of income tax and value added tax. Different types of transformations and their specific effects on the tax obligations of entities are discussed.

The third part of the thesis deals in detail with the basic investment funds, their legislative regulation and the evolution of their definition through time. Based on data obtained from the Czech National Bank, the Prague Stock Exchange and the Specialised Financial Administration, the impact of changes in legislation on the behaviour of tax entities is analysed. The analysis shows that legislative tightening has often led to flexible adaptation by tax entities, for example, through only formal trading of investment fund shares on the stock exchange. The thesis also includes an analysis of several particular investment funds, their transformations and potential tax-optimising or abusive practices.

The paper concludes by proposing *de lege ferenda* solutions, such as narrowing the definition of a basic investment fund, tightening the rules for assessing the economic activity of funds, or abolishing the 5% tax rate for basic investment funds altogether. These proposals reflect the desire to increase tax fairness, reduce regulatory abuse and increase state budget revenues.

Keywords

tax avoidance; investment fund; abuse of law