

Tax audit - comparison of legislative regulation according to code of tax administration and code of tax procedure

Abstract

The purpose of my thesis is to analyze the current tax administration regulation with respect to tax audit. The reason for my research is the fact that in the present, two codes concerning tax administration are being in force.

The first one – Act No. 337/1992 Coll., as subsequently amended, Code of Tax Administration – is currently effective. Due to the fact that this code was prepared and approved in the hectic nineties of the last century, it has been suffering of several shortcomings. Some of its terms were not defined properly, some articles were not completely clear. Because this was an undesirable situation with a vast potential to negatively affect rights of its recipients, the code had to be completed and interpreted both by the Constitutional Court and the Supreme Administrative Court.

These were the main reasons for the development of a completely new code instead of just another amendment. In the summer 2009 after long lasting discussions, the code was finally approved by the Czech legislation as the Act. No. 280/2009 Coll., Code of Tax Procedure.

The purpose of this paper is to determine how the main task was accomplished; this is whether the new code guarantees higher level of regulatory certainty for the tax administration recipients – above all for tax subjects.

The thesis consists of three chapters, each of them dealing with different phases of the tax administration evolution. Chapter One is devoted to the tax administration regulation before the Act No. 337/1992 Coll., as subsequently amended, Code of Tax Administration, came into force. Chapters Two and Three examine both of the codes in force regulating the Czech tax administration with focus on the tax audit. For better comparison, the structure of these two chapters is similar – consisting of eight thematic sections.

The first section focuses on the fundamental principles of tax administration, which serve as interpretation rules. The second section is an introductory one and defines basic

terminology of tax audit. The third section deals with the tax audit initialization taking into account all the uncertainty stemming from it. The fourth section concentrates on problems resulting from tax audit repetition and tax subject's rights affected by this procedure. Sections five and six provide a list of duties and discretions of the tax subject. The seventh section explains the procedure of finalization of the tax audit with all its important impacts on proofs. The last section describes the legislative approach towards the tax data protection.

Conclusions are drawn in the Chapter Three. The Code of Tax Procedure was found to be a more suitable regulation of tax administration, because it guarantees the rule of law, justice and democracy to greater extent than the Code of Tax Administration. Yet despite the numerous discrepancies that have been already solved there still remain some of them and other ones emerge. Therefore, the court's interpretation of this legislation will still play significant role in its application.