

EVIDENCE IN TAX PROCEEDINGS

Abstract

The purpose of the thesis is on one hand to provide an overall view of the issue of burden of proof in tax proceedings. On the other hand the thesis gives a detailed look into unclear and problematic provisions of the Tax Code concerning the burden of proof of tax subjects as well as that of tax administrators. The reason for my analysis is that number of questions related to the burden of proof in tax proceedings are very often matter of disputes between tax subjects and tax administrators which in many cases has to be decided by the Czech Supreme Administrative Court.

The thesis is composed of four chapters, each of them dealing with different aspects of evidence. Chapter One is introductory and deals with evidence in proceedings in general. It also defines basic terminology used in the thesis such as evidence, basic principles of process, burden of production or burden of persuasion. The Chapter Two explains specifics of evidence in tax proceedings. Chapter Three deals with the definition of evidence and mentions different types of evidence in tax proceedings. Chapter Four is focused on the key issue of evidence in tax proceedings – the concept of burden of proof. The chapter consists of five parts. Part One concerns burden of proof of taxpayers while Part Two looks at burden of proof of tax administrators. Part Three deals with shifting of burden of proof from a taxpayer to a tax administrator or vice versa. Part Four illustrates consequences in a case a taxpayer fail to fulfil his burden of proof. Finally, Part Five investigates burden of proof from the substantive law point of view.

It can be summarized that evidence in tax proceedings plays the key role in tax process and it has a significant impact on eventual success of taxpayers in tax disputes. Although the new Tax Code clarifies a number of provisions concerning evidence and burden of proof in tax proceedings I would suggest further improvement of the legislative procedure which would simplify Czech tax law. Recent situation could be also improved through periodic education of tax administrator employees related to producing and assessing the evidence in tax proceedings.