

Abstract

Time limits in tax administration

Time limits have an irreplaceable role in law. They are of a crucial importance especially in situations where a certain act (exercise of a right or a fulfillment of obligation) is limited by time so that after a certain time expiration it is possible to state that such an act was not performed and thus to draw legal consequences hereof. The main purpose of a time limit is the demarcation of the state of uncertainty as to whether the act will be performed or not and thus to determine either the legal consequence of the performance of the act or the consequences of the default of time.

It is clear that the tax proceedings legislation also needs its time limits. Quite frequently it is necessary to set a certain time period for the performance of an act. This time period is set by a time limit. Otherwise it would be only possible to state that an act has already been performed or not yet been performed. It would however not be possible to state that the act was supposed to be performed, i.e. if a person who could have acted or was supposed to act, in fact did not act, the whole process of administration of taxes would come to a deadlock.

The aim of this thesis is, firstly, to generally analyze the concept of time limits. The legal sciences deal with the general properties of time limits only partially. The general part of this thesis is thus dedicated to this issue.

The first chapter deals with the concept of tax administration. As an introduction to the concept of time limits the author dedicated the second chapter of the thesis to the phenomenon of time and its importance in law. The third chapter deals with the term „time limits“ and tries to distinguish it from other periods of time. The fourth chapter analyses the different category of time limits, according to the current legal science. The fifth chapter is dedicated to time calculation in law. Next to the rules regarding calculation of time limits the author takes into account also other rules of calculation in relation to other time periods. A special attention is given to the problem of calculation of time limits according to the Tax Procedure Code. The last chapter of the „general part“ of the thesis analyses the running of a time limit according to the Tax Procedure Code, especially the beginning of running of a time limit, its extension, suspension and interruption, as well as its conservation and expiration.

The „special part“ of the thesis is dedicated to the analysis of certain particular time limits, which are applied during the tax administration. The main aim is to find out whether the current state of play and the practice are in conformity with the general findings about time limits.

The first chapter of this „special part“ deals with the time limits for submission of tax return. The second chapter analyses the tax maturity dates, including the issue of an overpaid tax. The third chapter deals with the time limit for tax assessment, including the decision of the Constitutional Court No. I ÚS 3244/09 as of 10.3.2011. The fourth chapter analyses the time limit for tax collection and also the time limit within which arises the right of a tax return. The fifth chapter is dedicated to time limits in relation to remedial measures and the sixth chapter analyses the time limits set by the tax administrator. The last chapter of the special part is dedicated to internal time limits, i.e. those time limits set up by a tax administrator by internal norms.

The conclusion deals with the summary of the author's findings. The time limit is understood by the author as a certain time period set by a legal act, decision or a treaty, within

which an act has to be performed as to avoid a legal consequence which is connected with its non-performance. Other time periods only express simple (unconditional) duration. The difference between time limits and other time period is then manifested also by the way of time calculation in law. According to the author's opinion, special rules for time limit calculation are to be applied only in the case of time limits (and not any other time periods). The author also suggested specific rules for the calculation of time limits in cases, such as extension, suspension and interruption of time limits. In the author's views, the current classification of the different time limits is not sufficient and he therefore extended it and defined a new category of time limits for the fulfillment of obligations which – if unperformed – give rise to sanctions or other possibilities to enforce such a fulfillment of obligation. Regarding the frequently used time limits in tax administration, the author did not state a crucial deviation as regards the general perception of time limits. However, he pointed out that some time periods are not to be considered as time limits and certain time limits are wrongly analyzed by the tax administrators. He stressed out that the time limits should be approached in a unified manner as they have the same function throughout the whole legal order.