

Tax Search - English summary

The aim of this work is to describe the basics of tax search of Czech tax authorities in view of new tax procedure act, and jurisdiction.

In 2011 a new Tax Procedure Act has come into operation. It affects all tax procedures including tax search. It has established new principles of tax procedures, and has also included some jurisdiction. However, it has also established some new questions, that must be solved by new jurisdiction.

Tax search is a specific procedure how government, using its special agencies - usually Tax Authority Offices, monitors declared taxes. Sometime tax authorities think their work is so important that there is no limitation in used tools. Then a court must say there is a limitation not only in act but also in principles of good administration. Some of these opinions were included into the new act, some were left intact since government does not agree with them.

Tax search must have its goal. According to Constitutional Court a tax authority cannot start arbitrarily but there must be some suspicions, and a prove of it. Tax search alone can be separated into 3 parts - beginning, process, and conclusion. All these parts have their guidelines. Especially at the beginning tax authority can start tax search in given time of 3 years, and whole tax search must be ended by an Explanatory Report. The report is also very important part because it can replace rationalization of Additional Payment Obligation. Starting tax search is important for another reason. Once started it cause condition of *rei iudicatae* for given tax and period, so tax authority can reopen such period only from remunerative reasons.

As anyone can see, the tax search is bound by huge number of regulation, and jurisdiction as well. Therefore tax authorities try to find out other ways to make

the tax search easier. They have found it in a special procedure called Procedure to Correct Doubtfulness.

Tax search has a counterparty of the procedure as well, here called Tax Subject. Subject's right is to be opponent to the tax authority in the procedure, and make its disputes. The subject also has duty proving what it declared to tax authority before. However the subject does not have right to dispute at tax search only, it can also prepare its position in process of preparing its declaration to tax authority. Its right is to declare tax duty as low as possible, in given legal limits of acts. This procedure is called Tax Optimization.