

The Controversy of the Provisions in the Field of Property Taxation and Confiscation of Illegal Property

Darja Gregorčič Bernik, Ph.D., Professor in the field of Business Finance and Taxes, College of Accounting and Finance in Ljubljana, Slovenia.

E-mail: darja.bernik@vsr.si

This article examines property taxation as a part of tax procedure, conducting a financial investigation under the Financial Administration Act (Zakon o finančni upravi [ZFU], 2014) and explores the confiscation of illegal property based on financial investigation under the Confiscation of Illegal Property Act (Zakon o odvzemu premoženja nezakonitega izvora [ZOPNI], 2011) and discusses the proof of the origin of the property by the client in the course of litigation. The author investigates the possibly controversial provisions of property taxation, which relate primarily to the rate and method of taxation and the violation of the constitutional principle of retroactivity. Additionally, the author expresses her views regarding the question of whether taxation of property is permissible within the framework of procedural legislation.

Moreover, the article presents judgments of the Supreme and Administrative Courts of the Republic of Slovenia regarding taxation on the growth of assets of illegal origin as well as the decision of the Constitutional Court of the Republic of Slovenia regarding the illegal confiscation of property in connection to ZOPNI (2011) and the issue of retroactivity. The article concludes with the author's opinion on the presented judgments, as well as possible procedural and organizational solutions for improving the situation in the area of tax and administrative procedure. The author also touches on the controversy of certain provisions in the area of financial investigation according to ZOPNI (2011). This investigation may start because of a sudden increase in assets or based on suspicion that an individual possesses the property origin. It can also be based on tax procedure-findings of Slovenian tax authorities (FURS).

The methodology of this paper is a qualitative, critical analysis of the judgments and the legal provisions studied, with a synthesis of scientific findings. With their application to the current state in tax procedures and other pre-criminal proceedings concerning the confiscation of assets of illegal origin, the author suggests possible improvements in the fields. With the use of critical analysis of the judgments the author identifies the controversy of certain legal provisions in the field of property taxation and confiscation of illegal property, the author presents possible procedural and other administrative organizational solutions for improving the tax and administrative procedure as well as the procedure of conducting a financial investigation in connection with the confiscation of illegal property. The article concludes by synthesizing scientific knowledge and presenting possible solutions for improving process procedures in the field of property taxation as well as in the field of confiscation of illegal property. With the help of the presented administrative organizational solutions and proposals for the elimination of controversial provisions or their amendments, the article contributes to the identification of the controversial provisions and indicates future solutions in the subject area. The findings addressing implied

administrational organizational solutions are useful in practice to both the tax authorities as well as to other investigative bodies in the Republic of Slovenia.

Keywords: property taxation, assessment of the tax base, financial investigation, confiscation of property of illegal origin, the principle of retroactivity

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