

## Małgorzata Magdalena Hybka

Poznań University of Economics and Business

e-mail: malgorzata.hybka@ue.poznan.pl

ORCID: 0000-0002-3524-3489

---

# PERFORMANCE OF TAX INVESTIGATIONS AND TAX SANCTIONS FOR INCOME CONCEALMENT IN POLAND

---

DOI: 10.15611/pn.2022.3.03

JEL Classification: K34, K40, K42

© 2022 Małgorzata Magdalena Hybka

*This work is licensed under the Creative Commons Attribution-ShareAlike 4.0 International License. To view a copy of this license, visit <http://creativecommons.org/licenses/by-sa/4.0/>*

*Quote as:* Hybka, M. M. (2022). Performance of tax investigations and tax sanctions for income concealment in Poland. *Prace Naukowe Uniwersytetu Ekonomicznego we Wrocławiu*, 66(3).

**Summary:** This paper gives an insight into the application of one of the institutions of law adopted nearly twenty years ago by the government to counteract income tax evasion in Poland. The contents of the paper focusses on two main issues. First it enquires into the institution in question – in particular into its design, giving consideration both to the sources of information necessary to detect and disclose income concealment, standards of tax procedures and the legal framework behind them. In the course of this enquiry certain questions are asked and answered in relationship to the purpose, the effects, the sustainability of the regulations, that in its revised structure are in effect since 1st of January 2016, to the existing economic conditions. Secondly it determines the frequency and scope of the application of the procedures and provisions under consideration while taking into account the statistical data from the Ministry of Finance. It examines the results of tax investigations and evaluates their performance by using selected indicators. It also brings to light certain facts about the scale and nature of the phenomenon of income concealment in Poland.

**Keywords:** concealment of income, tax evasion, tax sanctions.

## 1. Introduction

Tax compliance in Poland is regulated in the Constitution. According to the Article 84 every citizen shall comply with his public duties, including their tax obligations, as specified by the statute of law. Notwithstanding this provision the scale of tax

evasion according to certain sources poses a real threat to the Polish state's finances (*Estimating international tax evasion by individuals*, 2019, p. 87). One of the seemingly straightforward methods to evade taxation is to conceal sources or the actual level of income. Sanctions for this type of recalcitrance towards tax authorities take diversified forms depending on the jurisdiction and evasion scenario. Penalties tend to be less severe if the fact of concealing income is admitted to the tax authorities in the course of the tax investigation or tax audit.

Concealed income is usually hard to detect for tax authorities as long as they do not receive information from third sources about potential cases or they do not detect inconsistency or incongruity in the taxpayers' files and declarations. Estimates of its scale are therefore uncommon and usually less precise than these measuring tax deficiency due to other categories of tax non-compliance. Polish tax authorities sanction the concealment of income with a special institution of law. It provides for tax investigation combined with the assessment of 75% of tax estimated by the tax authorities in the course of these investigation. The provisions governing its application that are the main topic of this paper have been constantly debated both by practitioners as well as by the Polish scientific community.

Law at force is a product of legal sources refinement by the competent authorities implementing and interpreting them (Vogenauer, 2020, p. 2). For that reason studies including critical examination of such sources applying a doctrinal method may provide an incentive for both theorists and practitioners as well as the decision makers at the governments' level to reassess certain components of the legal and economic framework. The law and economy are inextricably entwined and frequently "the nuggets of economic analysis are scattered in a broad survey of jurisprudence" (Mahoney, 2017, p. 208). Taking this fact into account the paper is also aimed at highlighting certain ambiguities and depicting gaps between the primary "*raison d'être*" of the principles and procedures and their implications in the economic and social environment by employing to some degree methods of socio-legal research. Some limitations in this endeavor are however emerging from the scarcity of statistical data. As such the institution is assessed by using the available data collected by the Ministry of Finance.

Most of the economists dealing with tax evasion address this problem from a macroeconomic perspective without differentiating between non-compliance forms. This paper focuses on personal income concealment only. This field is commonly referred to by lawyers and very rarely by economists. Moreover even publications discussing the legal nature of the phenomenon and the means of its counteraction are not in abundance. There is a moderate number of publications coping with the jurisprudence concerning the topic in question, however there seems to be a necessity for papers assessing selected institutions or applying comparative studies as a scientific method. The author tries therefore to bridge certain gap attempting to ponder a problem of institutional inadequacy of tax sanctions at force to socio-economic conditions. It builds upon the hypothesis that the institution

designed to deal with income concealment cases in Poland is a relic that is not sufficiently attaining its objective, leads to administrative underperforming and therefore calls for a systemic reform based on internationally common standards, taking into consideration best practices. One of the methods to determine revenue performance of the institutions in the realm of taxation includes application of some coefficients (Ebrill, Keen, Bodin, and Summers, 2001, pp. 40-41). Similarly results of tax verifications or investigations are evaluated with the aid of specific ratios (*Tax administration...*, 2021, pp. 218-223). The paper therefore relies inter alia on comparable methods to achieve the postulated goals.

## 2. Identification and selection of income concealment cases

For the last decade there has been enormous progress when it comes to the methods put into practice in order to uncover tax non-compliance. New strategies allow tax administrations all over the world not only to disclose fraudulent activities and reduce the number of these towards the top of compliance pyramid, but to also exercise sanctions, provide feedback and measure results of their actions and finally make the enforcement activities visible to the taxpayers and thus encourage them to follow the compliance path (*Audit case selection systems...*, 2004, p. 7). They also increase cooperation, facilitate exchange of good practices between the nations, lead to some approximation of certain procedures on the international scale and induce coherence of organizational structures (*Tax administration...*, 2015, p. 123). Another phenomenon that may be observed in recent years is the increasing application of data processing technologies to track inconsistencies both in the taxpayers' statements and other sources of available information. They include both parametric and non-parametric methods (*Compliance risk management*, 2004, p. 91; Khwaja, Awasthi, and Loeprick, 2011, p. 28).

Poland since its accession to the European Union has slowly been following in the footsteps of the older member states by adopting necessary changes both to harmonize the tax law with community standards and to reshape certain organizational structures. The Polish tax administration not only implemented European Union tax risk management models but also certain techniques and mechanisms to uncover tax evasion schemes. There are however some institutions and administrative procedures that may be perceived as a legacy of the period before accession to the European Union. They are predominantly integrated into the system of income taxation of individuals since its design is not influenced by the process of harmonization. An institution of this kind is inter alia regulated in section 5a of the Personal Income Tax Act. It provides for taxation of such income (sources of income) that has (have) not been declared to the tax authorities and application of appropriate sanctions. The basis for launching administrative investigation in order to estimate the real value and sources of taxpayer's income is information about individuals suspected of having committed an affirmative act leading to evasion or deficiency of tax (inter alia

camouflage, deceit, subterfuge, concealment, attempts to obscure events). In order to prevent tax evasion data about taxpayers' expenses which significantly exceed the income declared for tax purposes is specifically singled out, separately collected and analyzed by appointed tax departments. Particular attention is devoted to expenses exceeding certain thresholds in a tax year. Taxpayers files are stored for the period of six years from the end of the tax year in which their expenses were incurred. Tax authorities collect information as well as from internal as from external sources. The first ones include computer databases available to the tax administration, amongst others databases storing declarations and statements submitted by taxpayers and third parties, compliance check reports, tax audit records and the documents collected in the course of enforcement activities.

Certain provisions of the Tax Ordinance (e.g. the Articles 82, 82a and 83-86) impose an obligation on third parties to submit tax-related information to the tax authorities. External information originates from courts and institutions enforcing their judgements, notaries, banks, trust funds, insurance companies, stockbrokers, car dealers, local government offices, the Internal Security Agency (*ABW*), the Social Insurance Institution (*ZUS*), the Police. In addition information is derived from the media or whistle-blowers. Tax authorities also make use of information included in export and import documentation, statements about foreign currency brought into the country (registers of customs offices) and data stemming from the National Court Register (*KRS*) and Land Register.

Information about taxpayers is collected without their knowledge or participation. At that stage data is weighted and grouped in relative order. Official investigation is more likely to be instituted in the so called high risk cases. As a result taxpayers are categorised according to the gravity of risk. Tax authorities keep track of those who lead luxurious lifestyles without declaring income sufficient enough to cover their spending (*Information on the results...*, 2013, p. 39). The category "high risk" includes also the following taxpayers (*Guidelines for tax authorities...*, 2005): those purchasing commodities of immense value (works of art, antiques, jewellery, luxury cars, etc.); investing significant amounts of money (e.g. on the property market or stock exchange); with bank accounts in foreign financial institutions; shareholders in corporations; owners of recently formed businesses and businesses frequently declaring losses or declaring insignificant profits from economic activity (in comparison to businesses operating in similar market conditions; the same economic sector; with comparable scale of activities); owners closing their business after a short period of activity and then setting up new ones in the same or related economic sectors; taxpayers not declaring any income; previously suspected or convicted for fraud, money laundering, other crimes (especially financial crime); suspected of lending their names to others' businesses; suspected of taking part in fictional transactions or collaborating with corporations located in tax havens; members of criminal groups; family members of the taxpayers mentioned above. This category also covers officials of central and local government, members of certain professions

(such as lawyers, doctors, court experts, auditors, architects) and taxpayers with access to financial information (e.g. chairmen of housing cooperatives, members of committees running tender procedures, managers, directors of state owned enterprises). After selection of high risk cases the data undergoes the process of classification, segregation, prioritization and verification and finally forms a basis for further inquiries or is put aside as insufficient or unreliable. In relation to taxpayers who are suspected of concealing or under-declaring income tax authorities are entitled to institute tax investigation or initiate tax audit activities.

### 3. Tax investigation and sanctions for income concealment

Contrary to tax avoidance tax evasion is classified by the law as a punishable offence. The measures of deterrence depend on the scale, form or gravity of the taxpayers' non-compliance. Intentional concealment of income or sources thereof may be sanctioned with penalties in the form of both fines and imprisonment. Concealment of income is in Poland sanctioned with a 75% tax rate imposed on the tax base assessed *ex officio*. Contrary to the principles applicable in most of the countries this base is not determined in relation to the tax outstanding but takes into account the taxpayers' expenditures and the property accumulated in the fiscal year. The clause giving tax authorities under specified conditions the right to define the taxable income with reference to taxpayers' expenditures while considering at the same time the ability to pay originates from the article 64 of the Act on State Income Tax and Wealth Tax of 16 July 1920 (Ustawa z dnia 16 lipca 1920 r.). It was frequently modified, by extending and precisising its substance under constantly changing regimes and circumstances (Rodak, 2016, p. 13). Finally in its reshaped form was included in the amendment of the Personal income Tax Act implemented in 1991 (Act of 16 July 1920...). Some of the recent modifications were even resulting from the doubt about constitutional inconsistency in legislation. The current version of this provision is resulting from revisions of this act adopted in 2015 (Act of 16 January 2015...).

With regard to the suspicion that the taxpayer is concealing the income tax authorities have a right to launch an investigation aimed at the establishment of tax liability. Following two judgements of the Constitutional Tribunal in Poland the regulations governing such investigations were reexamined and redrafted in 2015 since both their interpretation as well as certain administrative practices were deemed as unconstitutional. According to the tribunal decision the ambivalence existed in relation to evidence collection and presentation, statute of limitations on tax collection, responsibilities and rights of the taxpayer and tax administration (Strzelec, 2013, pp. 13-20).

The legislator introduced the notion of concealed income, clarified the standards related to application of the sanctions and in particular adopted two of the following principles of the investigation in question:

- the priority of the tax authorities should be to identify the genuine sources of taxpayers' income;

- in the course of the investigation an assumption should be made that the income of the taxpayer is derived either from taxable sources or sources exempt from taxation. In addition it should be alleged that it is not stemming from an act (contract) which according to the article 58 of the Code of Civil Procedures (Code of Civil Procedures...) cannot be enforceable and legally binding. Such contracts may be unenforceable in particular on grounds of public policy, as what they represent could pose harm to the society or offend the public sensibilities (involving activities that are intrinsically contrary to the letter of law or principles of social coexistence, e. g. drug trafficking, theft, prostitution).

Both of these principles are entwined and their implementation is intended to counteract a certain proclivity of some taxpayers to provide an argument that their income was derived from certain activities contrary to social norms. This strategy of defense usually places tax authorities in a bewildering position. It is due to the fact that the circumstances of the acts under consideration are hard to examine. They are in many cases related to the sphere of taxpayers' intimacy, which renders the procedures aimed at gathering of proofs and verifying the facts relatively demanding to accomplish for the tax authorities. At the same time adoption of this strategy may prove beneficial to taxpayers as income originating from such activities is according to the article 2 of the Personal Income Tax Act classified as not falling within the scope of taxation. This problem may be illustrated *inter alia* on the basis of the decision issued by the director of the National Tax and Customs Information on 10 December 2021. This decision confirms the privileged economic situation of sex workers in the course of tax investigations in question and may finally draw attention of the legislator to the provisions that do not entirely meet international standards. This dilemma does not exist in relation to acts contrary to the letter of law. In accordance with the article 304 of the Code of Criminal Procedures (Code of Criminal Procedures...), if there are reasons to assume that the taxpayer's income is derived from an act of criminal nature, the tax authority has an obligation to refer the case for the prosecution, which may result in suspension of the tax investigation until the case is resolved by another authority or court.

The burden of proof in the course of the tax investigation rests with the tax authority. It is however incumbent on the taxpayers to deliver credible rebuttal evidence in support of arguments for the defence and declared facts (e.g. when claiming to have received income from such sources as gifts, loans, unregistered employment abroad, sale of antiques the taxpayers are expected to provide documents of bank transfers, testimonies of witnesses, customs declarations certifying importation of foreign currency). It is also true when the taxpayer claims that the income is derived from activities that cannot be the subject of a legally binding contract. Thus it is in the taxpayer's best interest to collect relevant proofs at the time of receiving the income.

It is currently a common practice of the tax authorities to deny the evidence from the hearing of the taxpayer as a party. It is usually assumed that taxpayers may intentionally testify in an unreliable, misleading or false way in order to depict

the facts in the most favorable manner for themselves and exert influence on the outcome of the case. In addition such a hearing requires the taxpayer's consent. As a consequence tax authorities are more inclined to issue the request for written statements instead. The legislator equipped them also with the right to demand a statement about the taxpayer's expenditures and material status.

The recent amendments provided for the extension of the taxpayers' rights to be informed. Article 9 of the Tax Ordinance imposes on the tax authorities the obligation to comprehensively notify the taxpayers about their entitlements and duties, in addition to all the legal and factual circumstances regarding the ongoing investigation. Currently the regulations also require the tax authorities to ensure that all the participating parties do not suffer any harm due to ignorance of the law. At every stage of the investigation they are expected to provide all necessary explanations and guidance (Stanisławski, 2019).

There are three ways in that a tax investigation may come to an end:

- It may be discontinued by force of law – when the tax authorities are unable to prove concealment of income and as a result the investigation is declared as being without substance.
- By a decision determining tax liability – when the tax authorities are able to prove taxpayers' non-compliance and the sources of income are disclosed in the course of the investigations either by the tax authorities or by the taxpayers themselves (e.g. the tax authorities detect certain mistakes in reporting the income; the taxpayer omitted some sources of income in his declarations and in the course of tax investigation demonstrated *bona fide* by highlighting the circumstances leading to inaccuracy). In this case the tax liability is calculated by application of standard tax rates that were in force in the tax year to which this liability relates. The taxpayer has an obligation to pay the tax due (which in most cases was initially underpaid due to the under or misreporting of income). The amount of tax to be paid generally includes statutory interest for the delay, counted from the day following the deadline for payment.
- By a decision establishing tax liability – in this case tax authorities are unable to disclose all the sources of income however high expenses in relation to income declared by the taxpayer clearly indicate concealment of certain sources. Contrary to a decision determining tax liability this decision is of a constitutive nature. It means that the taxpayer to whom such a decision has been delivered is obliged to pay the amount due within fourteen days of the date of its delivery. Statutory interest for late payment is charged as from the day following this deadline. Tax is assessed on the excess of the taxpayer's expenses and the accumulated wealth (in a certain period) over taxable or non-taxable income gained before these expenses were incurred. This excess is subject to a flat-rate tax of 75%.

#### 4. Performance of tax procedures aimed at sanctioning income concealment

Concealment of the sources of income is only one of the multiple forms of tax evasion. As it was already emphasized it requires deliberate and prearranged acts. For that reason it is not only technically demanding but also time and resources-consuming to counteract this phenomenon. In consequence its real scale and the revenue loss inflicted to the state budget are also relatively hard to estimate. Some insight into its magnitude may be gained by examining the statistical data on the results of tax investigations initiated in order to detect tax evasion. In Poland such data is collected by the Ministry of Finance.

**Table 1.** Potential concealment cases registered and investigations initiated in the years 2017-2020

Year	Potential income concealment cases registered	Cases put aside ad acta	Cases forwarded for other tax procedures	Cases forwarded to other tax authorities	Tax investigations initiated
2017	31 182	15 962	554	5592	234
2018	27 537	13 762	472	3298	168
2019	26 675	14 462	400	4365	171
2020	30 035	14 501	311	3462	169

Source: own elaboration based on (*Tax audits...*, 2018, 2019, 2020, 2021).

According to the reports for the years 2017-2020 tax authorities registered nearly 115,4 thousand potential income concealment cases. This number is steadily decreasing over the years. In comparison in the period 2013-2016 their number reached approximately 188,6 thousand. Although the quantity of information collected on taxpayers suspected of concealing sources of income is significant, tax investigations aimed at establishing tax liability and imposing the 75% penalty rate, are relatively rarely initiated. In the years 2017-2020 they were launched with reference to as few as 742 cases (0.64% of potential income concealment cases). Many cases were dismissed as unconfirmed, ambiguous or unreliable (approximately 50.5% of all cases registered).

A relatively small percentage of cases was forwarded for further evaluation and proposed to be used in other investigations (within the same tax authority). Approximately 14.5% of cases were forwarded to other tax authorities (inter alia tax offices other than the ones where the case was initially registered). Publication of the decisions establishing the tax liability was in the years 2017-2020 not a common practice, however they were delivered to the taxpayers in the case of 49.1% of the investigations initiated. In 37.5% of cases tax authorities were unable to prove concealment of income as a result the investigations and discontinued them by force of law (Table 2).



**Table 2.** Decisions establishing tax liability, tax investigations discontinued by force of law and decisions changed in the years 2017-2020

Year	Tax investigations discontinued by force of law	Decisions establishing tax liability (first instance)	Decisions changed or repealed	
			first instance	second instance
2017	82	114	6	49
2018	66	94	9	85
2019	68	85	1	32
2020	62	71	1	34

Source: own elaboration based on (*Tax audits...*, 2018, 2019, 2020, 2021).

The decisions establishing tax liability issued by the tax authorities in the first instance assessed a total tax of almost 75,6 million PLN (Table 3). Appeals were filed by taxpayers for of 50-70% of these decisions (depending on the year). Some of the cases forwarded to other tax investigations (especially these concluded by the issue of decisions determining tax liability) resulted in additional tax being paid of approximately 5,7 million PLN.

**Table 3.** Tax assessed in relation to the investigations initiated in the years 2017-2020

Year	Tax assessed in the first instance decisions*		Tax assessed relating to decisions contested	Tax collected by tax authorities as a result of other investigations**
	total	average amount per one decision		
2017	21 465 350	188 293	12 315 522	5 670 691
2018	26 849 054	285 628	15 653 783	4 693 907
2019	12 855 126	151 237	10 947 062	3 954 061
2020	14 449 856	203 519	7 892 542	2 564 927

\* Decisions establishing tax liability (75% penalty rate). \*\* Investigations initiated by tax authorities as a result of cases forwarded for other tax procedures (especially decisions determining tax liability).

Source: own elaboration based on (*Tax audits...* 2018, 2019, 2020, 2021).

As many as 217 decisions issued in the first instance were changed or repealed. The data included in Table 4 indicate that an increasing number of taxpayers is also challenging tax authorities' decisions in court (close to 47% of the decisions issued in the first instance). The number of cases in which the taxpayer's defense arguments were accepted by the courts as valid and convincing is also growing. The amount of tax paid roughly 2,5 million PLN was refunded to the taxpayers. In addition the issue of the decision assessing tax and the case judgement recognizing the stand of the tax authority does not automatically lead to the increase of tax revenue collected.

Despite the fact that the courts issued decisions amounting to the total of 21,8 million PLN, effective enforcement allowed the recovery of only 59,8% of that amount, i.e. approximately 13,0 million PLN.

**Table 4.** Court litigations and results of enforcement actions in the years 2017-2020

Year	Court litigations	Tax assessed related to court litigations	Amounts returned to the taxpayers	Tax collected as a result of enforcement on the basis of final decisions establishing tax liability
2017	44	4 880 223	539 907	3 674 711
2018	69	7 328 453	378 856	2 969 946
2019	34	5 717 403	188 093	2 918 056
2020	21	3 879 563	1 351 773	3 477 194

Source: own elaboration based on (*Tax audits...*, 2018, 2019, 2020, 2021).

An interesting insight into the structure of taxpayers concealing sources of income may also be gained on the basis of the research whose results were presented at the assembly of one of the Polish Parliamentary Chambers (Answer by the Undersecretary..., 2012). It allows for identification of certain patterns and regularities in the data. To discover them statistics about taxpayers was grouped according to the age, education, profession, place of residence and sources of income. The largest group, which accounted for 76.5% of taxpayers, was represented by those in the age between 30 and 60 years. Individuals under 30 years of age – represented only 8.9% of all income concealment cases. When it comes to income sources the most numerous group among the taxpayers concealing sources of income were those conducting business activities – nearly 61.8%.

## 5. Conclusions

Income tax evasion similarly to other manifestations of tax non-compliance behaviour has been addressed many times in the scientific literature. Due to the complexity of human nature it will continue to be discussed in articles and books as long as taxes exist. Tax evasion strategies are quite often involving concealment of income. It may compliment the other non-compliance schemes or form an evasion scheme on its own. Its scale is hard to be precisely defined, estimations are missing. In addition its frequency and consequences may only to limited extent be determined by results of tax investigations and tax audits. Estimation based on such results may however have a relatively high applicational value while suggesting and designing policy options to combat tax non-compliance (Nagin, 1990, pp. 7-22).

The administrative disclosure procedures are becoming more and more sophisticated. In the era of constant monitoring of all human activities the chances

for a taxman's success are steadily increasing. It is especially true in the case of income taxes imposed on individuals who have relatively fewer possibilities to evade. Some taxpayers such as those working on a contract of employment due to the withholding of tax, which is transferred to the tax authorities by the employers are usually compliant. It is therefore not surprising that concealment of income in Poland predominates in the group of taxpayers who conduct business activities. The art of taxation however consists in fishing by using the net in such a way as to catch as many minnows as possible while the big fish is almost always able to escape.

There are many arguments that may support the hypothesis formulated in the paper. The institution intended to detect and penalize income concealment in Poland, due to its design, encourages taxpayers to engage in certain, sometimes astounding, forms of behaviour to escape the comparatively excessive tax rate of 75% imposed not in relation to the tax outstanding but to the taxpayers' expenditures and value of property accumulated in the tax year. The sanction is applied only to taxpayers who in the course of the investigation are not able to credibly indicate sources of their income and persuasively dismiss the allegations, moreover tax authorities have a vested interest in imposing a penalty on as many taxpayers as possible, notwithstanding the principle *in dubio pro tributario* as only doubts about the content of the tax law and not about the facts of the case may be resolved in favour of the taxpayer. So even after amendments there may still be sufficient room for the misapplication of the law. Hence no one in Poland is in fact surprised by the stories told these days about taxpayers who when invited by tax authorities to the game of "hide and seek" are suddenly "confessing the sin of prostitution" or collecting signatures from the wedding guests on the lists informing about the value of the gifts for the bride and groom.

There are also objections of a different nature against the provisions of the tax law referred to in this paper. They definitely may be considered as a rather ineffective relic that leads to enormous use of resources. Tax authorities are collecting and processing immense quantities of information. It enables the selection of potential concealment cases. Most of such cases however after closer examination are finally considered as unsubstantiated and dubious. In consequence tax investigations are relatively efficient only in reference to less than 1% of cases registered. The data for the last years clearly indicate that the tax collected as a result of tax investigations reaches barely 20% of the tax assessed on the basis of decisions issued in the first instance. In the case of more than 50% of decisions taxpayers submitted an appeal. Although for the majority of these appeals the decision of the tax authorities was upheld in the second instance most of tax disputes are finally resolved in courts and many in favor of the taxpayer.

## References

- Act of 16 July 1920 on State Income Tax and Wealth Tax (Ustawa z dnia 16 lipca 1920 r. o państwowym podatku dochodowym i podatku majątkowym, Dz.U. z 1920 r. Nr 82, poz. 550)
- Act of 16 January 2015 amending the Personal Income Tax Act and the Tax Ordinance (Ustawa z dnia 16 stycznia 2015 r. o zmianie ustawy o podatku dochodowym od osób fizycznych oraz ustawy – Ordynacja podatkowa, Dz. U. z 2015 r., poz. 251)
- Answer by the Undersecretary of State at the Ministry of Finance, under the authority of the Minister to the question No. 4891 concerning the instruction issued by the Ministry of Finance on persons suspected of concealing income (Odpowiedź podsekretarza stanu w Ministerstwie Finansów – z upoważnienia ministra – na interpelację nr 4891 w sprawie wydanej przez Ministerstwo Finansów instrukcji odnoszącej się do osób podejrzanych o ukrywanie dochodów). (2012). Retrieved from <https://www.sejm.gov.pl/sejm7.nsf/InterpelacjaTresc.xsp?key=333BA09C>
- Audit case selection systems: Compliance risk management.* (2004). Paris: OECD. Forum on Tax Administration Compliance Sub-Group.
- Code of Civil Procedures (Ustawa z dnia 23 kwietnia 1964 roku – Kodeks cywilny, t.j. Dz. U. z 2020 r., poz. 1740,2 320, 2021 r., poz. 1509, 2459 z późn. zm.)
- Code of Criminal Procedures (Ustawa z dnia 6 czerwca 1997 roku – Kodeks karny, t.j. Dz. U. z 2020 r., poz. 1086 z późn. zm.)
- Compliance risk management guide for tax administrations.* (2010). Brussels: European Commission. Fiscalis Risk Management Platform Group.
- Ebrill, L., Keen, M., Bodin, J.-P., and Summers, V. (2001). *The modern VAT*. Washington D.C.: International Monetary Fund.
- Estimating international tax evasion by individuals.* (2019). Luxembourg: Publication Office of the European Union.
- Guidelines for tax authorities on dealing with income not covered by disclosed sources or originating from undisclosed sources* (Wytyczne Ministerstwa Finansów z dnia 13 stycznia 2005 r.). OS6-065-JR/19/2005/214. Warsaw: Ministry of Finance.
- Information on the results of tax audits concerning concealment of income* (świętokrzyskie region) (Informacja o wynikach kontroli. Przychody nieznanające pokrycia w ujawnionych źródłach lub pochodzące ze źródeł nieujawnionych w województwie świętokrzyskim). (2013). 193/2013/P/13/148/lkI. Warsaw: NIK.
- Interpretation of the law of 6 December 2021 (Interpretacja indywidualna z dnia 6 grudnia 2021 r., 0113-KDIPT2-1.4011.829.2021.3.AP)
- Khwaja, M. S., Awasthi, R., and Loepnick, J. (2011). *Risk-based tax audits. Approaches and country experiences*. Washington: The World Bank.
- Mahoney, P. G. (2017). Adam Smith. Prophet of law and economics. *Journal of Legal Studies*, 46(1), 207-236.
- Nagin, D. S. (1990). Policy options for combating tax non-compliance. *Journal of Policy Analysis and Management*, 9(1), 7-22.
- Personal Income Tax Act (Ustawa z dnia 26 lipca 1991 r. o podatku dochodowym od osób fizycznych, t.j. Dz. U. 2021.0.1119 z późn. zm.)
- Rodak, B. (2016). Dochody nieujawnione – rys historyczny. In Mariański et al. (Eds.), *Dochody nieujawnione*. Warszawa: Wolters Kluwer.
- Stanisławski, M. (2019). *Przebieg postępowania dowodowego w sprawach dotyczących opodatkowania przychodów nieznanających pokrycia w ujawnionych źródłach lub pochodzących ze źródeł nieujawnionych w świetle przepisów ustawy o podatku dochodowym od osób fizycznych*. Warszawa: Russell Bedford Poland.

- Strzelec, D. (2013). Wyrok Trybunału Konstytucyjnego w sprawie dochodów nieujawnionych. *Przeгляд Podatkowy*, (11), 13-21.
- Tax audits and verification activities conducted by tax authorities in Poland. Report of the Ministry of Finance. Documentation for the period 01.01.2017-31.12.2017 (Sprawozdanie MF o kontrolach podatkowych i czynnościach sprawdzających za okres od 01.01.2017 r. do 31.12.2017 r.)*. (2018). Warsaw: Ministry of Finance.
- Tax audits and verification activities conducted by tax authorities in Poland. Report of the Ministry of Finance. Documentation for the period 01.01.2018-31.12.2018 (Sprawozdanie MF o kontrolach podatkowych i czynnościach sprawdzających za okres od 01.01.2018 r. do 31.12.2018 r.)*. (2019). Warsaw: Ministry of Finance.
- Tax audits and verification activities conducted by tax authorities in Poland. Report of the Ministry of Finance. Documentation for the period 01.01.2019-31.12.2019 (Sprawozdanie MF o kontrolach podatkowych i czynnościach sprawdzających za okres od 01.01.2019 r. do 31.12.2019 r.)*. (2020). Warsaw: Ministry of Finance.
- Tax audits and verification activities conducted by tax authorities in Poland. Report of the Ministry of Finance. Documentation for the period 01.01.2020-31.12.2020 (Sprawozdanie MF o kontrolach podatkowych i czynnościach sprawdzających za okres od 01.01.2020 r. do 31.12.2020 r.)*. (2021). Warsaw: Ministry of Finance.
- Tax administration 2015. Comparative information on OECD and other advanced and emerging economies*. (2015). Paris: OECD.
- Tax administration 2021. Comparative information on OECD and other advanced and emerging economies*. (2021). Paris: OECD.
- Tax Ordinance (Ustawa z dnia 29 sierpnia 1997 r. – Ordynacja podatkowa, t.j. Dz. U. 2020.0.1325 z późn. zm.)
- Vogenaauer, S. (2020). *Sources of law and legal method in comparative law* (Research Paper Series. No. 2020-04). Frankfurt am Main: Max Plank Institute for European Legal History.

## SKUTECZNOŚĆ POSTĘPOWAŃ PODATKOWYCH I SANKCJI Z TYTUŁU NIEUJAWNIANIA DOCHODÓW DO OPODATKOWANIA W POLSCE

**Streszczenie:** Artykuł dotyczy funkcjonowania jednej z instytucji prawa podatkowego powołanej do życia około dwudziestu lat temu przez władze państwowe w celu przeciwdziałania zjawisku uchylania się od opodatkowania podatkiem dochodowym od osób fizycznych w Polsce. Analizie poddano instytucję, o której mowa – w szczególności jej ukształtowanie, z uwzględnieniem zarówno źródeł informacji niezbędnych do wykrycia i ujawnienia zjawiska ukrywania dochodów, jak i standardów procedur podatkowych oraz wdrożonych w związku z nimi ram prawnych. W pracy – po pierwsze – udzielono odpowiedzi na pytania dotyczące celu, skutków i dostosowania regulacji, które w zmienionej formie obowiązują od 1 stycznia 2016 r., do istniejących warunków gospodarczych, po drugie, określono częstotliwość i zakres stosowania analizowanych procedur i przepisów przy uwzględnieniu danych statystycznych Ministerstwa Finansów. Zbadano również wyniki postępowań podatkowych i za pomocą wybranych wskaźników oceniono ich skuteczność, a także wskazano na fakty mogące świadczyć o skali i charakterze nieujawniania dochodów w Polsce.

**Słowa kluczowe:** nieujawnianie dochodów, uchylanie się od opodatkowania, sankcje podatkowe.