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SOME REFLECTIONS ON *IN DUBIO PRO TRIBUTARIO* PRINCIPLE

Introduction

A catalogue of general tax principles was formulated in the doctrine of tax law, understood as the rules expressing absolute values or highlighting certain values always constituting the rationale for a given action[1]. They are essential especially in the process of interpreting the tax law provisions. The following are listed among those principles, inter alia: the principle of deciding for the benefit of the taxpayer (*in dubio pro tributario*), the principle of limited application of analogy in tax law, the principle of durability of the entitlements of taxpayers benefiting from tax reliefs and exemptions, the principle of respecting the concepts adopted from other fields of law, the principle of non-retroactivity. It should be noticed that a part of the indicated rules may be derived directly from the constitutional norms, to which the Constitutional Tribunal made great contributions[2]. And others are products of the tax law. The principle of resolving doubts for the benefit of a taxpayer (*in dubio pro tributario*) stands out against this background. This principle, which is inherently of postulative character[3], has become a normative principle, expressed directly as of the beginning of 2016 in Art. 2a of the Act of 29 August 1997 – The Tax Ordinance Act[4]. Pursuant to the provision quoted, "Irremovable doubts as to the contents of the provisions of tax law shall be resolved for the benefit of a taxpayer".

[1] A. Gomułowicz, *Zasady podatkowe* [in:] *System prawa finansowego*, vol. 3: *Prawo daninowe*, ed. L. Etel, Warsaw 2010, p. 99 and *idem*, *Zasady podatkowe wczoraj i dziś*, Warsaw 2001. See also: B. Brzeziński, W. Nykiel, *Zasady ogólne prawa podatkowego*, „Przegląd Podatkowy" 2002, no. 3.

[2] See: J. Oniszczuk, *Podatki i inne daniny w orzecznictwie Trybunału Konstytucyjnego*, Warsaw 2001.

[3] See: A. Mariański, *Rozstrzyganie wątpliwości na korzyść podatnika. Zasada prawa podatkowego*, Warsaw 2009.

[4] Consolidated text: Dz.U. 2019, Item 900 as amended – hereinafter abbreviated to o.p.

The introduction of the indicated principle to the legal order was accompanied by high hopes of taxpayers, and its indispensability was commonly perceived. So much that the issue became the subject of the nationwide referendum of 6 September 2015, in which one of the questions was: "Are you for the introduction of the general principle of resolving any tax law interpretation doubts for the benefit of a taxpayer?" It was not difficult to predict answers to that question – almost 95% of those who took part in the referendum opted for the introduction of this principle. More interestingly, however, even before the referendum, on 10 July 2015 the Polish Sejm adopted the amended tax ordinance, including this principle. After signing the amending act[5] by the President of the Republic of Poland on 5 August 2015, as of the beginning of 2016 the principle *in dubio pro tributario* became a part of the binding legal order. From the very beginning, however, some concerns were indicated, regarding the extent of its practical application, emphasising that one should watch and monitor whether the principle does not end up being diluted in the reality of our fisc[6]. After the period of over 3 years from the introduction of the said principle to the Polish legal order, one may be tempted to say that those concerns have been confirmed to some extent. The principle of resolving doubts for the benefit of a taxpayer has a low impact on the application of tax law. The purpose of this study is to present, first of all, against the background of the case law of the administrative courts and the Constitutional Tribunal, both the very essence of *in dubio pro tributario* principle and the extent of its application. Eventually, this is to serve to verify the presented argument about the very limited impact of the rule expressed in Art. 2a o.p.

The meaning of *in dubio pro tributario* principle

While introducing the principle of resolving doubts for the benefit of a taxpayer to the legal order, its purpose was clearly defined in the justification to the draft amendment[7]. It was about increasing the protection of taxpayer's rights, especially within the interpretation of tax law, by reducing the negative effects of the provisions being imprecisely formulated by the legislator. It was shown that "the purpose of including in the Tax Ordinance the provision providing *expressis verbis* this principle is to introduce an interpretation rule that shall allow to interpret the tax law provisions without prejudice to legitimate interest of a taxpayer"[8]. This direction of interpretation is

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[5] The Act of 5 August 2015 on amending the Act – The Tax Ordinance and some other acts (Dz.U. 2015, Item 1197).

[6] http://tvn24bis.pl/z-kraju,74/rzecznik-praw-obywatelskich-bierze-pod-lupe-fiskusa,589404.html.

[7] 7th term Sejm, Print No. 3018.

[8] *Ibidem*.

addressed to entities applying tax law, so primarily to tax authorities and taxpayers, and further also to the administrative courts which control the legality of decisions made by those authorities.

The analysed principle remains closely related to the legality principle expressed in Art. 7 of the Constitution of the Republic of Poland and Art. 120 o.p. (the tax authorities operate based on the provisions of law). It cannot go unnoticed that it is a simple consequence of *nullum tributum sine lege* principle resulting from Art. 84 and Art. 217 of the Constitution of the Republic of Poland. Since because both the subjective and objective scope of taxation must be precisely defined by means of statute, then, to this end, it is impermissible to derive any fiscal obligations by means of non-literal interpretation. With such an approach, one may wonder about the sense of formulating *in dubio pro tributario* principle in the tax law provisions, if, in fact, it is nothing more than the expression of the principle of definiteness when creating regulations in this field of law. Apart from the informational effect, which results not only from the very introduction of the principle in the general tax law, which was included in the Tax Ordinance, but also the place in which it was done (Art. 2a), in my opinion the analysed principle should also act in a preventive way. Paradoxically, such an effect shall not relate to the sphere of tax law application, but to its making. One would like to say that the entities responsible for creating tax law should act with awareness that their mistakes cannot be shifted to taxpayers. Such, in my opinion, justified assumption is not, unfortunately, fulfilled, because it is difficult to acknowledge that the quality of legal regulations in the area of law has improved recently. It may be quite the opposite, which results, first of all, from the "legislation diarrhea", the effect of which is the expansion of solution in this regard, which results largely from the undertaken actions connected with tax system tightening. As a consequence, the assumption of the influence of *in dubio pro tributario* principle also on the process of lawmaking has not been reflected in practice. It should be remembered, however, that such a situation may translate into the extent of applying the said principle in the process of tax law application, which shall be directly proportional to the quality of the tax law provisions. This is because complicated and unclear provisions constitute the basis for applying *in dubio pro tributario* principle.

The contents and principle of applying *in dubio pro tributario* principle

The way of formulating *in dubio pro tributario* principle accepted by the legislator gave rise to concerns even at the stage of the parliamentary work. Especially, the doubts as to the correctness of the introduced solution, indicating at the same time the correct wording of the analysed principle, were expressed by the Tax Law

Advisory Board in their Opinion No. 2/2015 of 19 February 2015[9]. According to one of the proposals indicated by the Board, the *in dubio pro tributario* principle could take the following form: "In the case, in which the application of the available methods of tax law interpretation does not give an unambiguous result, the interpretation result which leads to the slightest interference in the rights and freedoms expressed in the Constitution of the Republic of Poland shall be considered as the correct one". With such a normative approach, firstly, it would clearly have a form of an interpretation rule, secondly, its application would be wider, because the lack of an unambiguous interpretation result is something different than the irremovable doubts as to the contents of the provision, and thirdly, the concept of benefit used in Art. 2a o.p. would become understandable. Eventually, though, the postulates formulated by the indicated body were not fulfilled.

The very general way of formulating the *in dubio pro tributario* principle gave rise to interpretation doubts from the very beginning, which caused that this interpretation principle has become itself the subject of General Interpretation No. PK4.8022.44.2015 of the Minister of Finances dated 29 December 2015[10]. It was emphasised in the Interpretation that the analysed principle does not relate to the doubts as to the facts and its addressees are tax authorities, and indirectly also taxpayers or other obliged entities (withholding agents, tax collectors, third parties, legal successors). Three basic rules of applying Art. 2a o.p. were also indicated. Firstly, it was emphasised that the placement of Art. 2a in the general provisions of the Tax Regulation indicates that its application is not, admittedly, limited to tax proceedings, but in fact the rule included in it will be applied when issuing administrative acts (decisions, rulings). Secondly, "a taxpayer's benefit" should be understood as a legal solution optimal for a taxpayer out of those which appeared during the interpretation of this provision. And finally thirdly, if on the tax authority's side doubts arise as to the meaning of a provision in a given case, and it will not be possible to remove them during the correct interpretation, then applying Art. 2a o.p. the tax authority should accept the meaning of the provisions beneficial for the taxpayer.

An attempt to decode the analysed principle was also made in the literature on the subject, indicating that the resolving of doubts for the benefit of a taxpayer constitutes a second-degree interpretation rule, applied when the application of literal interpretation, systematic interpretation or teleological interpretation does not lead an interpreter to unambiguous results. Thus, it should be understood in such a way that it is an order to choose out of two or more relatively equivalent interpretation alternatives, the one which is the most beneficial for a taxpayer[11].

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[9] http://www.mf.gov.pl/c/document_library/get_file?uuid=7d777ab7-0a4f-4a3b-9ec8-f2f5b149fa0c&groupId=764034.

[10] Dz.U. 2016, Item 4.

[11] B. Brzeziński, *Rozstrzyganie wątpliwości na korzyść podatnika jako zasada wykładni prawa podatkowego. Próba analizy* [in] *Ex iniuria non ontur ius. Księga ku czci Profesora Wojciecha Łączkowskiego*, eds. A. Gomułowicz, J. Małecki, Poznań 2003, p. 257.

It shall apply when three conditions are fulfilled collectively[12]. Firstly, there must be doubts as to the contents of tax law provisions, but this concept should be defined pursuant to Art. 3(2) o.p. Tax law provisions mean the provisions of tax acts, provisions of double tax agreements ratified by the Republic of Poland and other international agreements ratified by the Republic of Poland relating to tax issues, as well as the provisions of implementing acts published on the basis of tax acts. Secondly, the doubts as to the contents of tax law provisions must be significant. So it is not about any doubts, but only such doubts which cannot be eliminated by means of interpretation. And finally thirdly, the elimination of doubts must be accompanied by a possibility of accepting such a solution the effect of which will be the existence of a benefit for a taxpayer[13].

In the binding wording, as emphasised in the General Interpretation of the Minister of Finance, the *in dubio pro tributario* principle was limited solely to the contents of the legal provisions, whereas it would be possible to extend it also to the facts. In this respect it would be convergent with the *in dubio pro reo* principle indicated in the Code of Criminal Procedure[14] (Art. 5 § 2), expressed in resolving irresolvable doubts in favour of the accused. It is not, however, as if doubts as to the facts are excluded from the influence of the order to resolve doubts for the benefit of a taxpayer, because such a rule may be derived and it is derived (as discussed hereinafter) from Art. 122 o.p. stipulating the principle of objective truth and Art. 121 § 1 o.p. expressing the principle of confidence. Thus, the tax authority conducting the proceedings is obliged to undertake all and any necessary actions in order to explain the facts thoroughly, and omissions in this regard have a direct effect on the correctness of the decision issued and in such meaning they cannot be to the detriment of a party. In my opinion, the extension of the *in dubio pro tributario* principle to the facts would be for information only, emphasising its meaning in this area. If the legislator, as indicated above, in spite of the rules resulting from Art. 84 and 217 of the Constitution, considered appropriate to normatively define the principle of resolving interpretation doubts for the benefit of a taxpayer, then consequently, in spite of the norms of Art. 121 § 1 and Art. 122 o.p., the legislator should also include the facts.

Thus, against these considerations a thought appears that the interpretation rule which was to contribute towards the solution of doubts connected with the interpretation of tax law, has itself become a subject of such interpretation, which, in addition, is not homogenous.

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[12] See: M. Popławski, *Komentarz do art. 2a* [in:] *Ordynacja podatkowa. Komentarz*, ed. L. Etel, Warsaw 2017, p. 50–51.

[13] *Ibidem*.

[14] Act of 6 June 1997 – Kodeks postępowania karnego [*Code of Criminal Procedure*] (Consolidated text: Dz.U. 2018, Item 1987 as amended).

Application of *in dubio pro trubutario* principle in the light of the Judgement of the Constitutional Tribunal of 13 December 2017 (SK 48/15)

In view of the doubts connected with the proper interpretation of the *in dubio pro tributario* principle, and, as a consequence, very limited scope of its application in practice[15], this issue was referred to by the Constitutional Tribunal when deciding in Case File No. SK 48/15. In the Statement of Reasons to this Judgement it was emphasized that the subjective interpretation of the *in dubio pro tributario* principle, whereby the fact of the occurrence of doubts on the side of a given subject (a taxpayer or, which is much more frequent, a tax authority) decides about its application, is totally groundless constitutionally. The Tribunal opted for the objective understanding of the *in dubio pro tributario* principle, according to which its application remains relativized to those doubts which in relation to a given tax regulation arise on the ground of the interpretation rules accepted in the legal culture. Emphasising the complex character of the legal interpretation, the Constitutional Tribunal indicated that by assumption it would result in the elimination of any ambiguities burdening the legal text, therefore it would be possible to recreate the legal norm as an unambiguous statement. In this context, the position, according to which the analysed principle can be applied only after taking into consideration all the types of interpretation directives, leads to the obvious absurd, excluding the performance of any real function by this principle, and especially, the role assigned to it by the basic law. So the analysed should be understood in such a way that it is a rule of functional interpretation which excludes in the process of the tax law interpretation any other reasons referring to the values or objectives attributed to employers. Thus, an irremovable doubt concerning the interpretation of the discussed regulation mean only such a doubt that remains relevant after the application of the rules of literal and systematic interpretation. Such an assumption, in the opinion of the Constitutional Tribunal, leads to the conclusion that when after scrupulous literal interpretation and any rejection of those interpretation variants that do not meet the systematic requirements, the interpreter:

– obtained the explicitness of the given interpretation of the levy regulation, he would not be allowed to modify the received interpretation result based on the functional argumentation, including the teleological argumentation, if it resulted in the worsening of the legal situation of a taxpayer or another entity obliged to pay public levies,

[15] According to the Reply of the Minister of Finance dated 18 September 2018 to Interpellation No. 25459 (DPP10.054.7.2018.1), http://orka2.sejm.gov.pl/INT8.nsf/klucz/ATTB4SHUK/%24FILE/i25459-o1.pdf, in the period from the entry into force of Art. 2a o.p. to 31 July 2018 the *in dubio pro tributario* principle was applied in favour of entrepreneurs in 38 decisions and in 3 individual interpretations.

– did not obtain the explicitness of the given interpretation of the levy regulation, he would have to choose, out of the possible interpretation results, the most beneficial result for the legal situation of a taxpayer or another entity obliged to pay public levies.

Thus, the way of understanding Art. 2a o.p. presented by the Constitutional Tribunal differs in fact both from the one indicated by the Minister Finance and the one presented by some of the representatives of the tax law[16]. The assumption that the principle is applied only in a situation when it is not possible to determine the unambiguous contents of a tax law regulation using all the available methods of interpretation, leads to its marginalisation, because, as duly emphasized in the above-cited ruling, the complex interpretation of a provision in principle always leads to obtaining the explicitness of the legal text. Therefore, it should be assumed that the *in dubio pro trubutario* principle serves to eliminate doubts that arise after the application of the literal interpretation rules, and the functional argumentation, including the teleological argumentation, should not serve to increase the liabilities of the obliged entities.

It is to be hoped that the presented ruling of the Constitutional Tribunal closed the period of ignoring the *in dubio pro trubutario* principle by the tax authorities based on the argument that the application of all types of law interpretation causes the lack of doubts as to the contents of the provisions, and therefore there is no point in referring to Art. 2a o.p.

Resolving doubts for the benefit of a taxpayer in the case law of administrative courts

The application of the *in dubio pro tributario* principle in practice is reflected in the settlements of the tax authorities, both in the situations in which (very rarely, as shown earlier) they apply this principle and when in spite of the fact that a taxpayer raises the relevance of the application of this interpretation principle, they do not do that. Administrative acts issued by tax authorities are subject to control by administrative courts, and the latter ones refer to the principle of resolving any doubts for the benefit of a taxpayer quite often[17].

The analysis of the case law of administrative courts from the period after the introduction of Art. 2a to the Tax Ordinance allows to formulate certain general remarks. Firstly, the courts notice that the codification as of 1 January 2016 of the

[16] M. Popławski, komentarz do art. 2a.

[17] Detailed analysis in this respect with regard to the period before and after 1 January 2016 was presented by A. Bielska-Brodziak. See: A. Bielska-Brodziak, *In dubio pro tributario – przeszłość i teraźniejszość* [in:] *Współczesne problemy prawa podatkowego. Teoria i praktyka*, vol. 1: *Księga jubileuszowa dedykowana Profesorowi Bogumiłowi Brzezińskiemu*, ed. J. Głuchowski, Warsaw 2019, p. 65–75.

in dubio pro tributario principle does not mean that this principle could not be applied in the earlier period, because it was a principle developed in the case law of the courts[18]. Secondly, the research on the representative sample of the rulings of the administrative courts from the years 2012, 2013 and 2017 leads to the conclusion that the percentage of the rulings in which the courts passed over the argument *in dubio pro tributario* raised by a taxpayer is higher in 2017 than in 2012 (in 2012 there were 25 cases, and in 2017 – 36)[19]. This means that contrary to expectations the normativisation of the *in dubio pro tributario* principle did not make the courts feel obliged to refer to this objection. What's more, as results from this research the number of cases in which the courts acknowledged that there were no grounds to apply the principle quoted, because in the lawsuit there were no doubts as to the contents of a given tax law provision (year 2012 – 3 cases, year 2017 – 39 cases)[20]. It seems that the main cause of this state of affairs was a different way of understanding the *in dubio pro tributario* from the way indicated in the Judgement of the Constitutional Tribunal of 13 December 2017. That was because the courts assumed that resolving any doubts for the benefit of a taxpayer would take place only when all the applicable methods of interpretation did not lead the unambiguous determination of the contents of the legal norm[21].

In spite of the tendencies presented above, one may indicate such rulings of the administrative courts in which Art. 2a o.p. was referred to directly[22]. For the most part, they are from 2018, so from the period after the publication of the above-quoted Judgement of the Constitutional Tribunal containing interpretation guidelines as to the understanding of Art. 2a o.p. Especially, this principle was used in the Resolutions adopted by Naczelny Sąd Administracyjny [NSA; the Supreme Administrative Court] in the lawsuits of the following file reference numbers: II FPS 4/16[23] and II FPS 2/17[24] and in the Judgements in the lawsuits of the following file reference numbers: II FSK 3588/16[25], II FSK 1153/16[26], II FSK 1627/16[27], II FSK 1126/16[28].

[18] Uchwała NSA z dnia 6 listopada 2017 r. (II FPS 3/17).

[19] A. Bielska-Brodziak, *In dubio*…, p. 72.

[20] *Ibidem*, p. 73.

[21] See e.g. the Resolution of NSA of 19 December 2016 (II FPS 4/16).

[22] The review of the case law in this respect was presented by J. Rudowski in his paper titled: *Zasada „in dubio pro tributario" w orzeczeniach sądów administracyjnych – doświadczenia w stosowaniu*, presented during the 4th Toruń Overview of Tax Case Law, Toruń 1–2 March 2019, https://www.law.umk.pl/panel/wp-content/uploads/1_1_rudowski.pdf.

[23] NSA Resolution of 19 December 2016 (II FPS 4/16).

[24] NSA Resolution of 15 May 2017 (II FPS 2/17).

[25] NSA Judgement of 20 December 2018 (II FSK 3588/16).

[26] NSA Judgement of 24 January 2018 (II FSK 1153/16).

[27] NSA Judgement of 8 June 2018 (II FSK 1627/16).

[28] NSA Judgement of 11 May 2018 (II FSK 1126/16).

It is also clearly seen against the background of the case law of the administrative courts that in spite of overlooking in the contents of Art. 2a o.p. the issue of resolving for the benefit of a taxpayer also doubts as to the facts of the case, the *in dubio pro tributario* principle may also be applied to this respect. Here, the representative legal view is the one expressed in the NSA Judgement of 19 December 2018 (I GSK 1093/16) in which it was indicated that "the authority must keep in mind that inadequate explanation of the facts cannot be the grounds for findings that are negative for the party. The authority should base their findings on convincing evidence, and any irremovable doubts should be resolved for the benefit of a taxpayer – pursuant to the *in dubio pro tributario* principle"[29].

The above incline us to conclude that when introducing Art. 2a o.p. it was assumed that tax authorities are its addressee, but also, indirectly, taxpayers and other obliged entities that may refer to the principle resulting from this provision in case of disputes. In practice, however, the decisions of the administrative courts as well as of the Constitutional Tribunal largely shape the scope of applying this rule. Those court rulings, which indicate both the way of understanding the analysed principle and the scope of its application, shape in a direct way the judicial practice of tax authorities. In my opinion there is no better way to increase the scope of the effect of the *in dubio pro tributario* principle than its consolidation in the judicial practice of the administrative courts.

Conclusions

In conclusion it should be stated that the analysis of the judicial practice of tax authorities and administrative courts after 1 January 2016, i.e. the date of introducing the *in dubio pro tributario* principle to the Polish legal order in a normative form, leads to the conclusion that so far it has been difficult to consider this time turning point as crucial. Essentially, the opinion expressed by the Tax Law Advisory Board still remains valid. They stated that the implementation of the provision including the principle of interpreting unclear law for the benefit of a taxpayer (*in dubio pro tributario*) shall not cause any significant, far-reaching consequences for the functioning of the tax system, both in terms of the tax law cohesion and financial effects[30]. In my opinion, however, the situation evolves in the right direction, the reason of which is, first of all, the Judgement of the Constitutional Tribunal of 13 December 2017. The way of understanding Art. 2a, as indicated in it, may bring the effect of "unblocking" of this principle,

[29] NSA expressed an analogous view in Judgements dated: 18 December 2018 (II FSK 3500/16) and 28 February 2018 (I FSK 2338/15).

[30] Opinion No. 1/2015 of the Tax Law Advisory Board of 30 January 2015, http://www.mf.gov.pl/c/document_library/get_file?uuid=4cecec4d-8045-4a1a-9e3f-f1ce5ab73c7f&groupId =764034.

which results primarily from the presented way of understanding the notion of "irremovable doubts as to the contents of the provisions of tax law". Since the view dominating in practice was that the law interpretation rules applied comprehensively will in principle lead in each case to the unambiguous understanding of a given provision, and hence there is no space in this case to apply the *in dubio pro tributario* principle.

Notwithstanding the above, the undoubted effect of the normativisation of the quoted principle is that it raises the awareness of taxpayers and makes it necessary to analyse it when settling tax matters by tax authorities. However, its placement in the current structure of the Tax Ordinance provisions is not the most fortunate. Because it should be emphasised that its placement in Art. 2a, completely out of the catalogue of the general principles of tax proceedings (Art. 120–129) is not justified. The *in dubio pro trinutario* principle should be placed next to other general principles separated within the codification process of the general tax law, including: legality, balancing a taxpayer's interest and a public interest, trust or prohibition of abuse of law[31].

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Oniszczuk J., *Podatki i inne daniny w orzecznictwie Trybunału Konstytucyjnego*, Warszawa 2001.

[31] Such conception was presented by the General Tax Law Codification Commission in the draft of the new tax ordinance. See L. Etel *et al.*, *Nowa Ordynacja Podatkowa. Z prac Komisji Kodyfikacyjnej Ogólnego Prawa Podatkowego*, Białystok 2017, p. 72 et seq.

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Summary

As of the beginning of 2016 the principle of resolving possible interpretation doubts for the benefit of a taxpayer (*in dubio pro tributario*) was introduced to the Polish legal order. This rule was upgraded to the tax law principle expressed directly in Art. 2a of the Act of 27 August 1997 – Tax Ordinance. Such a decision of the legislator resulted from a prior referendum, wherein nearly 95% of voters supported the introduction of this principle, perceiving it, apparently, as an instrument that would enhance the practice of tax law application by tax authorities. After several years, it can be assumed that these hopes have not been fulfilled since this principle has not been applied more widely in the practice so far. The purpose of this study is to present both the very essence of *in dubio pro tributario* principle and experiences concerning its application in recent years, with a particular focus on the rulings issued thereon by administrative courts and Constitutional Tribunal.

Keywords: tax, tax law, interpretation of law, tax law principles

KILKA REFLEKSJI NA TEMAT ZASADY *IN DUBIO PRO TRIBUTARIO*

Streszczenie

Z początkiem 2016 r. do polskiego porządku prawnego wprowadzono zasadę rozstrzygania wątpliwości na korzyść podatnika (*in dubio pro tributario*). Regułę tę podniesiono do rangi zasady prawa podatkowego wyartykułowanej wprost w art. 2a ustawy z dnia 27 sierpnia 1997 r. – Ordynacja podatkowa. Ten ruch ustawodawcy był wynikiem uprzedniego referendum, w którym prawie 95% głosujących opowiedziało się za wprowadzeniem tej zasady, dostrzegając w niej zapewne narzędzie, które przyczyni się do polepszenia praktyki stosowania prawa podatkowego przez organy podatkowe. Po kilku latach można stwierdzić, iż nadzieje te nie zostały zrealizowane. W praktyce bowiem przedmiotowa zasada jak na razie nie znajduje szerszego zastosowania. Celem opracowania jest przedstawienie zarówno samej istoty zasady *in dubio pro tributario*, jak i doświadczeń na tle jej stosowania na przestrzeni ostatnich lat, ze szczególnym uwzględnieniem wydanych w tym zakresie orzeczeń sądów administracyjnych oraz Trybunału Konstytucyjnego.

Słowa kluczowe: podatki, prawo podatkowe, wykładnia prawa, zasady prawa podatkowego