ABSTRACT OF THE DOCTORAL DISSERTATION

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Title: Mistake of law in fiscal penal law and the proportionality of citizen protection in the context of the quality of tax law

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The doctoral dissertation entitled *Mistake of law in fiscal penal law and the proportionality of citizen protection in the context of the quality of tax law* adresses the issue of the intersection betweeen fiscal penal law and tax law in relations to the legal liability faced by citizens for breaches of tax law. Mistake of law in fiscal penal law is a legal concept designed to enable the avoidance of penal liability in case of ignorance of punishability of an act is justified. Such punishability is linked to a breach of tax law. Consequently, the quality of tax law is undoubtedly of significant importance for this liability. This dissertation attempts to examine the functioning of the legal concept of mistake of law in fiscal penal law in practice and to determine whether its scope is adequate to provide appropriate protection for citizens in the context of the quality of the current tax law.

The subject of this dissertation concerns an issue that has not been fully explored in previous studies on the concept of mistake of law in the Fiscal Penal Code. This dissertation examines the impact of the quality of tax law on the possibility of avoiding fiscal penal liability, from both a theoretical and a practical perspective.

The aim of this dissertation is to identify a legal model that seeks to provide citizens with protection against tax and fiscal penal liability for acts committed without awareness of their unlawfulness, in a manner commensurate with the quality of tax law. In other words, the aim is to find a legal model which would protect citizens in a manner commensurate with the quality of the tax law in force. This dissertation contains the following main thesis: the quality of tax law is poor and it is generally incomprehensible yet, and on this basis, a taxpayer cannot evade fiscal penal liability for acts of which they were not aware were punishable. To prove the above thesis, it is necessary to formulate the following research hypotheses:

1) mistake is a natural human tendency determined by internal and external factors,

2) the quality of tax law is poor and it is generally incomprehensible,

3) a taxpayer cannot evade penal tax liability for acts of which they were unaware were punishable due to the poor quality of tax law,

4) mistake regarding fiscal penal liability does not constitute adequate protection of civil rights in view of the quality of the current tax law.

This dissertation contains theoretical discussions, a historical overview and a comparative analysis in the context of international penal law and European judgements. The dissertation also includes interdisciplinary considerations, which are essential for understanding the foundations of mistake regarding fiscal penal liability and ignorance of tax law in a broader context, namely mistake as a phenomenon typical of human nature and the legitimacy of its justification. The research methodology employed in this thesis is based on formal-dogmatic, theoretical-legal, historical-legal and sociological approaches, as well as elements of the comparative method.

The dissertation is divided into seven chapters and a conclusion. In Chapter I, this study discuss the phenomenon of mistkae as human behaviour from the perspective of language, including legal language. Chapter II examines the concept of mistake of law according to the characteristics and scope of private law (civil law, commercial law) and public law (administrative law, tax law). Chapter III is devoted to a historical overview of mistake of law in Polish penal legislation, beginning with the oldest sources of law and the models (adopted or otherwise) for justifying the perpetrator's behaviour in the context of a lack of awareness of applicable penal law provisions.

Chapter IV constitutes a dogmatic analysis of mistake of law in its current scope from a penal law perspective, both in relation to the Criminal Code and its model of error as to unlawfulness, and to the Fiscal Penal Code and its model of error as to punishability.

Chapter V is devoted to tax law and the legislative process, a term which broadly encompasses the legislative process in its many dimensions. This chapter focuses on the quality of enacted law and the legislative process. It presents a model derived from constitutional norms and general statutes that shapes the process of sound legislation, as well as the actual the quality of legislation in Poland.

In the following chapter, this dissertation focused in particular on fiscal penal liability in the context of current tax law. Chapter VI contains an analysis of specific issues relating to penal liability, concerning, on the one hand, the constitutional and systemic requirements that impose specific obligations on the legislator, whilst at the same time requiring citizens to comply with the law. The intersection of these obligations is particularly interesting in the context of whether the legislator's fulfilment (or failure to fulfil) of its obligations may affect a citizen's fulfilment (or failure to fulfil) of their obligations.

Chapter VII contains the empirical section, which is divided into two parts. Each part of the research was conducted separately, in the form of anonymous questionnaires comprising both closed and open-ended questions. The first part was carried out amongst various professional groups who, in practice, encounter instances of mistake regarding fiscal penal liability and a lack of awareness of the scope of tax law. The methodology adopted and the research sample were designed to illustrate legal mistakes in its practical dimension within the Gdańsk appellate jurisdiction, the quality of tax law, doubts regarding tax law, and an assessment of the model of mistake regarding penal liability in the Fiscal Penal Code. The second part of the research was based on an open group of respondents. The research focus in this part centred on the quality of tax law, the general understanding of tax law, and awareness of the applicability of the mistake regarding penal liability. The research covered the impact of tax law on taxpayers' attitudes and their tax and fiscal penal liability, as well as an assessment of whether the protection of taxpayers in the context of the quality of tax law is sufficient.

The research was concluded with an analysis of the results and conclusions relating to the main thesis and research hypotheses. The concept of mistake regarding fiscal penal liability is not a mechanism that provides tangible (adequate) protection for citizens against legal liability arising from the poor quality of tax law. The empirical section, together with the theoretical section of the dissertation, enabled the main thesis and research hypotheses to be positively verified and a summary to be drawn in the context of the dissertation's subject matter and research problems. In the final section, the study sets out proposals that could improve the adequacy of civil protection in the context of the quality of tax law. The proposals put forward relate both to legislative measures and to actions emphasising a rethinking of the state's approach to legal education and the development of systemic solutions that genuinely would support citizens in resolving legal and tax issues of significance to them, including those of a tax and fiscal penal nature.

Keywords: fiscal penal law, mistake of law, mistake regarding penal liability, tax law, quality of tax law, the legislative proces in tax law, civil protection.