

The Tax Ordinance Act
z dnia 29 sierpnia 1997 r. (Dz.U. tłum. gb Nr 137, poz. 926)

t.j. Dz.U. z 2005 r. Nr 8, poz. 60

Dział I. General Provisions.

Art. 1. Scope of the act. This act shall regulate:

- 1) tax obligations;
- 2) tax information;
- 3) tax proceedings, tax inspection and investigation activities;
- 4) fiscal secrecy.

Art. 2. Detailing the scope of the act.

§ 1. The provisions of this act shall apply to:

1) taxes, fees and non-tax dues to the State budget and to the budgets of local government units, which the tax authorities are entitled to establish or determine;

2) *(repealed)*

3) stamp duties and fees referred to in the provisions on local taxes and fees;

4) matters covered by the provisions of the tax law other than those referred to in item 1, within the scope of the tax authorities' competence.

§ 2. Unless separate provisions provide otherwise, the provisions of Section III shall also apply to fees and non-tax dues to the State budget, which other authorities, not referred to in § 1, item 1, are entitled to establish or determine.

§ 3. The authorities referred to in § 2 are entitled to the rights of the tax authorities.

§ 4. The provisions of this act shall not apply to pecuniary performances resulting from relationships under civil law, or to fees for services to which the provisions on prices apply.

Art. 3. General definitions. Whenever in this act there is a mention of:

1) tax acts - it means acts concerning taxes, fees and non-tax dues to the State budget determining the subject and object of taxation, the arising of a tax obligation, taxable basis, tax rates and regulating the rights and duties of the tax authorities, taxpayers, tax remitters, tax collectors and their legal successors, as well as third parties;

2) provisions of tax law - it means the provisions of tax acts, the provisions of double taxation agreements ratified by the Republic of Poland and other tax-related international treaties ratified by the Republic of Poland, as well as the provisions of executory regulations issued on the basis of the tax act;

3) taxes - it means:

a) tax advances,

b) tax instalments, if the provisions of tax law provide for paying taxes by instalments;

c) fees and non-tax budgetary dues;

4) tax books - it means account books, book of revenue and expenses, records and registers that taxpayers, tax remitters and tax collectors are obliged to keep under separate regulations, for tax purposes;

5) tax returns - it means also the tax statements, lists or information that taxpayers, tax remitters and tax collectors are obliged to submit under separate regulations of tax law.

6) tax reliefs - it means exemptions, deductions, abatements or reductions provided for in the provisions of tax law, whose application results in decreasing the taxable basis or the amount of tax, except for decreasing the amount of output tax by the amount of input tax, within the meaning of the provisions on goods and services tax, and other deductions constituting a structural element of this tax;

7) tax refund - it means the tax difference refund or input tax refund within the meaning of the provisions on the goods and services tax, as well as other forms of tax refund provided for in the provisions of tax law;

8) non-tax dues to the State budget - it means dues not being taxes or fees constituting income of the State budget or local government units' budget resulting from a relationship under public law;

9) economic activity - it means any gainful activity within the meaning of the provisions on the freedom of economic activity, including the performance of a profession or any other gainful activity carried out in one's own name and on one's own or other persons' account, even if other acts do not include this activity in economic activity or person carrying on such activity - in entrepreneurs;

10) transaction price - it means the price of the object of the transaction concluded between affiliated entities within the meaning of tax law provisions referring to personal income tax, corporate income tax, and goods and services tax;

11) domestic entity - it means a domestic entity within the meaning of the tax law provisions referring to personal income tax, corporate income tax and also a foreign enterprise within the meaning of those provisions, located in the Republic of Poland;

12) foreign entity - it means a foreign entity within the meaning of the tax law provisions referring to personal income tax, corporate income tax and a domestic entity's foreign enterprise within the meaning of such provisions that is located outside of the Republic of Poland;

13) electronic document - it means an electronic document referred to in Article 3, item 2 of the Act on Informatization of Activities of Entities Realizing Public Tasks of 17 February 2005 (J.L. No. 64, item 565, as amended).

Art. 3a. Declaration in electronic form.

§ 1. Declarations specified in the regulation issued on the basis of § 3 may be submitted by electronic means of communication.

§ 2. A tax authority or electronic submission box in the tax administration's data transmission system shall confirm, in electronic form, the submission of the declaration by electronic means of communication.

§ 3. The minister responsible for public finances will issue a regulation specifying the types of declarations that may be submitted by electronic means of communication, with regard to the need for a gradual dissemination of the electronic form of contacts with the tax authorities and the frequency of submitting the declaration.

Art. 3b. Form and contents of the declaration.

§ 1. A tax return submitted by an electronic means of communication shall include:

1) data in the specified electronic format, such data being contained in the standard form of a tax return specified in separate provisions;

2) one electronic signature.

§ 2. The minister responsible for public finances, in consultation with the minister responsible for information technology shall issue a regulation determining:

1) the logical structure of tax declarations and applications submitted by electronic communication means;

2) the manner of sending tax declarations and applications by electronic means of communication;

3) the types of electronic signatures that should be affixed on particular types of tax returns or applications.

§ 3. While issuing the regulation referred to in § 2, the minister responsible for public finances shall take into account:

1) the need to ensure the safety, reliability and indisputability of data included in the tax returns and applications, as well as the need to protect them against unauthorised access;

2) limits on the amount of tax obligation, overpayment or tax refund amounts resulting from the tax declaration and the type of tax the tax returns refers to, as well as requirements for the particular types of signature specified in the provisions on electronic signature, in particular referring to the verification of the signature and time-stamping.

Art. 3c (repealed)

Art. 3d. Electronic submission of the declaration. The submission of the tax returns by electronic means of communication to the village administrator, the mayor of a town (president of a city), starost or voivodship marshal shall be governed by separate provisions.

Art. 4. Tax liability. Tax liability shall mean an unspecified duty, resulting from the tax acts, to bear a compulsory pecuniary performance in relation to the occurrence of an event specified by such acts.

Art. 5. Tax obligation. A tax obligation shall be an obligation of the taxpayer, resulting from a tax liability, to pay a tax in favour of the State Treasury, voivodship, county or commune in the amount, by the deadlines and in the place determined in the provisions of tax law.

Art. 6. Tax. Tax shall be a public, gratuitous, compulsory and non-refundable pecuniary performance in favour of the State Treasury, voivodship, county or commune budget resulting from statutory tax law.

Art. 7. Taxpayer.

§ 1. A taxpayer is a natural person, a legal entity or an organisational entity without legal personality subject to tax liability by virtue of the tax acts.

§ 2. Subjects other than those referred to in § 1 may be deemed to be taxpayers by the tax acts.

Art. 8. Tax remitter. A tax remitter is a natural person, a legal entity or an organisational entity without legal personality obliged under the provisions of tax law to calculate and collect tax from the taxpayer and to pay it, by the appropriate deadlines, to the tax authority.

Art. 9. Tax collector. A tax collector is a natural person, a legal entity or an organisational entity without legal personality obliged to collect tax from a taxpayer and to pay it, by the appropriate deadlines, to the tax authority.

Art. 10. Lump-sum form taxation.

§ 1. The introduction of a lump-sum form of taxation will not deprive the taxpayer of the possibility of choosing the taxation according to the general principles.

§ 2. The provision of § 1 will not apply if the tax acts do not provide for the possibility of the taxpayer choosing the form of taxation.

Art. 11. Fiscal year. A fiscal year is a calendar year, unless statutory tax law provides otherwise.

Art. 12. Deadlines.

§ 1. If the start of a deadline determined in days is a certain event, the day on which the event took place will not be taken into account when counting the deadline. The lapse of the last day of the specified number of days will be deemed as the end of the deadline.

§ 2. Deadlines determined in weeks end upon the lapse of the day of the last week that corresponds to the starting day of the deadline.

§ 3. Deadlines determined in months end upon the lapse of the day of the last month that corresponds to the starting day of the deadline, and where there is no such day in the last month - on the last day of this month.

§ 4. Deadlines determined in years end upon the lapse of the day of the last year that corresponds to the starting day of the deadline, and where there is no such day in the last year - on the day that would directly precede that day.

§ 5. If the last day of the deadline is a Saturday or a statutory holiday, the last day of the deadline will be deemed to be the day directly following that holiday or holidays.

§ 6. A deadline shall be deemed to be met if, before its lapse, a pleading was:

1) sent by means of electronic communication to the tax authority and a sender has received an official confirmation of receipt;

2) posted in a Polish post office or submitted in a Polish consular office;

3) submitted by a soldier or a member of the crew of a sea-going vessel with the commander of the military unit or with the captain of the vessel;

4) submitted by an incarcerated person to the administration of the penitentiary;

5) submitted by an arrested person in the administration of detention.

Rozdział 1. Tax Authorities.

Art. 13. Tax authorities.

§ 1. The tax authority, in accordance with its competence, is:

- 1) the head of a tax office, head of a customs office, village administrator, mayor of a town (president of a city), starost or voivodship marshal - as tax authority of the first instance.
- 2) the director of a tax chamber, director of a customs chamber - as:
 - a) appellate authority for the decisions of the head of a tax office or the head of a customs office respectively,
 - b) authority of the first instance according to separate provisions,
 - c) appellate authority for decisions issued by this authority in the first instance;
- 3) local government board of appeals - as appellate authority for decisions of a village administrator, mayor of a town (president of a city), starost or voivodship marshal.

§ 2. The minister responsible for public finances is a tax authority - as:

- 1) authority of the first instance in matters of declaring a decision invalid, the resumption of proceedings, the amendment or reversal of a decision, or the ascertainment of the expiry of a decision - *ex officio*;
- 2) appellate authority for decisions issued in matters referred to in item 1;
- 3) authority competent in matters of agreements on transaction prices;
- 4) authority competent in matters of interpretation of tax provisions,
- 5) authority competent in matters of information issued by banks and co-operative saving-credit unions on formed and liquidated bank accounts connected with economic activity pursued.

§ 3. Tax authorities of higher instance are appellate authorities.

Art. 13a. Extension of tax entitlements to other bodies. The Council of Ministers may issue a regulation entrusting the following authorities with the powers of tax authorities:

- 1) Head of the Intelligence Agency,
- 2) Head of Internal Security Agency,
- 3) Head of Central Anticorruption Office,
- 4) Head of Military Secret Service,
- 5) Head of Military Counterespionage Service

- provided it is justified by the protection of a state secrecy and state security requirements.

Art. 14. Entitlements of the minister. The minister responsible for public finances is in charge of general supervision in tax matters.

Rozdział 1a. Interpretations of Tax Law Provisions.

Art. 14a. Written interpretation. The minister responsible for public finances shall endeavour to ensure the uniform application of tax law by the tax authorities and tax inspection authorities, especially by interpreting it and taking into account the jurisdiction and judicial decisions of the Constitutional Court and European Court of Justice (general interpretations).

Art. 14b. Effect of the interpretation.

§ 1. The minister responsible for public finances will issue a written interpretation of the provisions of tax law at the written application of a party concerned about an individual case (individual interpretation).

§ 2. An application for an individual interpretation can refer to the facts of a case or to future events.

§ 3. The party applying for an individual interpretation is obliged to exhaustively present the facts of the case or future events, as well as a personal opinion on the legal estimation of these facts of the case or future events.

§ 4. The party applying for an individual interpretation must make a declaration, under the threat of criminal liability for false testimony, that the elements of the facts of the case that are subject to an application for an individual interpretation on the date of filing the application are not the subject of on-going tax proceedings, a tax inspection or tax inspection proceedings of the authority or tax inspection authority, and that no decision on the merits of a case has been issued by the tax authority or tax inspection authority. If this declaration is revealed to be false, the individual interpretation has no legal effect.

§ 5. No individual interpretation shall be issued on the elements of facts of a case that, on the date of issuing the application for an individual interpretation, are subject to on-going tax proceedings, a tax inspection or tax inspection proceedings of the tax inspection authority, or where a decision on the case's merits has been issued by the tax authority or tax inspection authority.

§ 6. To ensure uniform binding interpretations and to improve the service to applicants, the minister responsible for public finances issue a regulation authorising subordinate agencies to issue individual interpretations in a determined scope on his behalf, and to determine the material and local responsibilities of these authorities.

§ 7. The minister responsible for public finances will determine, in a regulation, the template for the application form indicated in § 1, including the applicant's identifying data, the information indicated in § 2-5 and the method of collecting the charge referred to in Article 14f.

Art. 14c. Application of the interpretation.

§ 1. The individual interpretation shall include a legally justified opinion about the applicant's estimation. Legal grounds can be omitted if the applicant's estimation is fully correct.

§ 2. If the applicant's estimation is negatively considered, an individual interpretation shall include correct and legally grounded estimation.

§ 3. The individual interpretation shall include information about the right to lodge a claim to the administrative court.

Art. 14d. Extension of the application. The individual interpretation of the provisions of tax law shall be issued without unnecessary delay, but no later than three months after obtaining the application. This term does not include terms and periods indicated in Article 139 § 4.

Art. 14e. Written interpretation of the minister.

§ 1. If the interpretation is ascertained as incorrect, the minister responsible for public finances is entitled to change *ex officio* an issued general or individual interpretation, especially taking into consideration the jurisdiction and judicial decisions of the Constitutional Tribunal and the European Court of Justice.

§ 2. The notification about a changed individual interpretation shall be delivered to the entity who received the individual interpretation in this case.

Art. 14f. Fee of the application.

§ 1. The fee for filing an application for an individual interpretation is 40 PLN, and should be paid within seven days of filing the application.

§ 2. If several facts of the case or future events are included in a single application for an individual interpretation, the fee shall be charged for every single fact of the case or future event included in the application.

§ 2a. An incorrectly imposed fee shall be repaid within seven days from the completion of proceedings in terms of the interpretation.

§ 3. The fee indicated in § 1 and § 2 is the income of the State budget.

Art. 14g. Lack of form.

§ 1. An application for an individual interpretation that does not meet the requirements indicated in Article 14b § 3 shall not be considered.

§ 2. (*repealed*)

§ 3. If the application is left unconsidered, a ruling shall be issued that can be appealed against. The provisions of chapters 14 and 16 of Section IV shall apply accordingly.

Art. 14h. Application of the provisions accordingly. In cases of individual interpretations, Article 120, Article 121 § 1, Article 125, Article 129, Article 130, Articles 135-137, Article 140, Article 143, Article 165a, Article 168, Article 169 § 1-2, Article 168, Article 170, Article 171 and provisions of chapters 5, 6, 10 and 23 of Section IV shall apply accordingly.

Art. 14i. Publication of the interpretation.

§ 1. General interpretations shall be published, without unnecessary delay, in the Official Journal of the Minister of Finance and in the Bulletin of Public Information.

§ 2. Individual interpretations, together with information about the date of delivery, shall be immediately transferred to the relevant tax authorities for the scope of matters being the subject of the interpretation, and to the relevant tax inspection authority.

§ 3. Individual interpretations, together with applications for interpretation, after removing the applicant's identifying data and other entities indicated in the context of the interpretation, shall be immediately published in the Bulletin of Public Information.

Art. 14j. Entities issuing the individual interpretation.

§ 1. As appropriate, individual interpretations can be issued by the relevant village administrator, town mayor (president of the city), starost or voivodship marshal.

§ 2. In a matter indicated in § 1, the fee for issuing an individual interpretation shall constitute the income of the local government unit budget.

§ 3. In matters not regulated in § 1 and 2, the provisions of this chapter shall apply accordingly.

Art. 14k. Effects of the application.

§ 1. The application of an individual interpretation before a change or before delivering to the tax authority a copy of the final and valid judgment of the administrative court reversing the individual interpretation must not be detrimental to the applicant, also where it has not been taken into account in the resolution of the tax case.

§ 2. The application of a general interpretation before a change must not be detrimental to the applicant, also where it has been not taken into account in the resolution of the tax case.

§ 3. When applying an interpretation that was changed or that was not taken into account in the resolution of a case, proceedings in matters of revenue offences or fiscal petty offence must not be initiated, and any proceedings initiated in that matters must be terminated without any arrears in interest.

Art. 14l. Tax consequences. If tax consequences connected with the event corresponding to the facts forming the subject of the interpretation occurred before the publication of the general interpretation, or before the delivery of the individual interpretation, the application of the interpretation will not exempt the applicant from the duty to pay tax.

Art. 14m. Exemption from the duty to pay tax.

§ 1. The application of an interpretation that was subsequently changed or was not taken into account in the resolution of a tax case will result in the exemption from the duty to pay tax, to the extent resulting from the event being the subject of the interpretation, if:

1) the obligation was not performed properly due to the application of an interpretation that was changed, or which was not taken into account in the resolution of the tax case, and

2) tax consequences connected with the event corresponding to the facts forming the subject of the interpretation occurred after the publication of the general interpretation, or after the delivery of the individual interpretation.

§ 2. The exemption referred to in § 1, shall include:

1) in the case of annual tax settlements - the period until the end of the tax year in which the changed general interpretation was published, the changed individual interpretation was delivered, or a copy of the administrative court's judgment reversing the individual interpretation with a statement of its validity was delivered to the tax authority;

2) in the case of quarterly tax settlements - the period until the end of the quarter in which the changed general interpretation was published, the changed individual interpretation was delivered, or a copy of administrative court's judgment reversing the individual interpretation with statement of its validity was delivered to the tax authority, as well as the following quarter;

3) in the case of monthly tax settlements - the period until the end of the month in which the changed general interpretation was published, the changed individual interpretation was delivered, or a copy of administrative court's judgment reversing the individual interpretation with a statement of its validity was delivered to the tax authority, as well as the following month.

§ 3. At the request of the taxpayer who applied the interpretation, in a decision in which the amount of the tax obligation is determined or established, the tax authority will determine the amount of tax indicated in § 1, or - if the tax was paid to the extent covered by the exemption - determines the amount of overpayment.

§ 4. The tax authority will inform the taxpayer, in writing, about the delivery date of a copy of the judgment referred to in § 2, and it will also notify the taxpayer of the last date of the period of exemption from the duty to pay tax resulting from the interpretation reversed by the judgment.

Art. 14n. Application accordingly.

§ 1. The provisions of Article 14k and Article 14m shall apply accordingly if:

- 1) a partnership or a company applied the individual interpretation issued before the company was established at the application of the entities planning to form the company - in the scope concerning the company's activity;
- 2) a branch or agency applied the individual interpretation concerning the activity of the branch or agency, issued before the establishment of the branch or agency at the application of the entrepreneur that formed it.

§ 2. In cases referred to in § 1, the changed individual interpretation will be delivered respectively to the company, branch or agency indicated by the entity applying for an individual interpretation.

Art. 14o. Failure to issue an interpretation by the deadline.

§ 1. If an individual interpretation has not been issued by the deadline referred to in Article 14d, it will be deemed that, on the day following the day when the deadline for issuing an interpretation elapsed, the interpretation confirming the applicant's viewpoint as fully correct was issued.

§ 2. The provisions of Article 14e and Article 14i § 2 shall apply accordingly.

Art. 14p. Application accordingly. The provisions of this chapter will apply accordingly to the amounts due to from tax remitters or tax collectors, third party's obligations and the dues referred to in Article 52 § 1.

Rozdział 2. Competence of Tax Authorities.

Art. 15. Observance of the material and local competence.

§ 1. Tax authorities shall observe their material and local competence *ex officio*.

§ 2. The material and local competence shall be established also taking into account the scope of tasks and the territorial range of the tax authorities, determined under separate provisions, in particular, of the provisions on the introduction of the pilot programmes referred to in Article 5 item Ia and Ib of the Act on Tax Offices and Fiscal Chambers of 21 June 1996 (J.L. of 2004, No. 121 item 1267 and No. 273 item 2703).

Art. 16. Material competence. The material competence of tax authorities will be established pursuant to the provisions specifying their scope of activities.

Art. 17. Local competence.

§ 1. Unless tax acts provide otherwise, the local competence of tax authorities shall be determined according to the place of residence or the address of the registered office of the taxpayer, tax remitter, tax collector or the entity indicated in Article 133 § 2.

§ 2. The minister responsible for public finances may issue a regulation determining the local competence of the tax authorities for certain tax obligations or the particular categories of taxpayers, tax remitters or tax collectors differently than determined in § 1, taking in consideration, in particular, the fact of having a place of residence or registered office abroad, the place of acquiring income, and the location of the taxation object.

Art. 17a. Tax liability of a third party. In the case of deciding on the tax liability of a third party, the locally competent tax authority shall be the tax authority competent for the taxpayer, tax remitter or tax collector.

Art. 18. Change of the competence.

§ 1. If, in the course of a tax year or other settlement period determined in separate provisions, an event takes place resulting in a change of the competence of a tax authority, the tax authority that was locally competent on the first day of the fiscal year or settlement period shall continue to be the locally competent tax authority for that settlement period.

§ 2. The minister responsible for public finances may issue a regulation determining the cases where, in the case of a change in local competence in the course of the fiscal year or settlement period, the competent tax authority shall be a different authority than that indicated in § 1, considering in particular, the change of taxpayer's place of residence, stay or registered office.

Art. 18a. Change of the local competence after the end of the fiscal year. If, after the end of the fiscal year or other settlement period, an event takes place that results in a change of local competence of the tax authority, the locally competent tax authority in cases relating to previous fiscal years or other settlement periods shall be the tax authority competent after the occurrence of such events, subject to Article 18b.

Art. 18b. Immutability of the competence. The tax authorities competent on the day of instituting tax proceedings or a tax inspection shall remain competent in the case to which the proceedings or inspection relate, even if in the course of a proceedings or an inspection, an event takes place that results in changing the competence.

Art. 19. Disputes of competence.

§ 1. Competence disputes shall be settled by:

- 1) the director of a tax chamber - between the heads of tax offices operating within the local competence area of one director of a tax chamber;
- 2) the minister responsible for public finances - between the heads of tax offices operating within the local competence area of different tax chamber directors;

- 3) the director of a customs chamber - between the heads of customs offices operating within the local competence area of one director of a customs chamber;
- 4) the minister responsible for public finances - between the heads of customs offices operating within an local competence area or different directors of customs chambers;
- 5) the administrative court - between the village administrator, the mayor of a town (president of a city), starost or voivodship marshal and the head of tax office or the head of the customs office;
- 6) the local government board of appeals common for village administrators, mayors (presidents of the cities) and starosts - and the administrative court if there is no such board;
- 7) an administrative court - between voivodship marshals;
- 8) in other cases - the minister responsible for public finances.

§ 2. Competence disputes shall be settled in a ruling at the request of the authority being a party to the dispute.

§ 3. In the cases referred to in § 1, items 2 and 4, the head of a tax office or the head of the customs office, respectively, shall submit an application of the dispute through the competent director of a tax chamber or the director of a customs chamber.

Art. 20. Suspension of activities during a dispute. Until a competence dispute is settled, the tax authority in whose area the proceedings were initiated will undertake only such actions that are necessary with regard to public interest or an important interest of a party.

Dział IIa. Agreements for Setting the Transaction Prices.

Art. 20a. Unilateral agreement. The minister responsible for public finances, hereinafter referred to as „the authority competent for an agreement”, at the request of a domestic entity, shall recognise the correctness of the selection and the application of the method for setting the transaction price between:

- 1) domestic entities affiliated with each other or
- 2) a domestic entity affiliated with a foreign entity and that foreign entity, or
- 3) a domestic entity affiliated with a foreign entity and other domestic entities affiliated to the same foreign entity - hereinafter referred to as the „unilateral agreement”.

Art. 20b. Bilateral and multilateral agreement.

§ 1. The tax authority competent for an agreement, at the request of a domestic entity, after obtaining the consent of the competent tax authority for a foreign entity affiliated with the requesting party, shall declare the correctness of the selection and the application of the method for setting the transaction price between the domestic entity affiliated with a foreign entity and that foreign entity (bilateral agreement).

§ 2. If an agreement refers to foreign entities coming from more than one state, concluding the agreement requires the approvals of the tax authorities of those states competent for the foreign entities with whom the transaction is to be concluded (multilateral agreement).

Art. 20c. Types of transactions covered by the agreement. The agreement shall cover transactions that are to be concluded after an application to conclude an agreement has been submitted, as well as transactions that started before the day of submitting the application. The agreement shall not be concluded within the scope of a transaction that started before the day of submitting an application for the agreement, and which are covered by tax proceedings, a tax inspection, a tax investigation conducted by the tax inspection authority, or proceedings before the administrative court.

Art. 20d. Proceedings in the case of not giving consent.

§ 1. If the tax authority competent for the foreign entity does not agree to conclude an agreement, or if there is a justified risk that consent shall not be given within six months from the day of filing the application, the authority competent for agreement shall notify the applicant thereof.

§ 2. In the case referred to in § 1, the applicant may, within 30 days from the day of receiving such notice:

- 1) withdraw the application to conclude the agreement - upon the refund of half of the fee paid;
- 2) modify the application to conclude a bilateral agreement into an application to conclude a unilateral agreement - upon the refund of one quarter of the fee paid;
- 3) modify the application to conclude a multilateral agreement into an application to conclude a bilateral agreement, if only the tax authority of one State gives its consent to conclude an agreement - upon the refund of one quarter of the fee paid;
- 4) accept a bilateral or multilateral agreement without including these foreign affiliated entities posing the obstacles indicated in § 1 refer to - without a change in the amount of the fee.

Art. 20e. Explaining doubts. Before submitting an application to conclude an agreement for setting transaction prices, the domestic entity interested in concluding an agreement may ask the authority competent for the agreement to explain any doubts concerning the conclusion of an agreement in that individual case, and, in particular, the purposefulness of concluding the agreement, the scope of necessary information, procedure and the probable time of concluding the agreement, as well as the expected conditions and validity thereof.

Art. 20f. Documents attached to the application. The party applying to conclude the agreement shall be obliged to present:

- 1) a proposal for applying the method of setting transaction prices, and in particular, to indicate one of the methods referred to in the provisions of the corporate income tax or personal income tax;
- 2) a description of the manner of applying the proposed method in relation to the transaction that is to be the object of the agreement, in particular to indicate:
 - a) principles for calculating the transaction price;
 - b) financial forecasts projections on which the transaction price calculation is based;
 - c) analysis of comparative data used for the transaction price calculation;
- 3) circumstances that may influence the correct setting of the transaction price, and in particular:
 - a) the type, object and value of the transaction, including the subject of an agreement,

b) a description of the course of the transaction, including the analysis of assets, functions and risks of the parties thereto, and descriptions of transaction-related costs expected by the parties, as well as a description of the economic strategies of the parties to the transaction and other circumstances, if the strategy or the circumstances influence the price of the transaction,

c) data concerning the economic situation of the branch of the industry in which the applicant pursues its economic activity, including data relating to the business transaction made by non-affiliated entities that were used to calculate the transaction price,

d) the organisational and capital structure of the applying party and entities affiliated thereto, being parties to the transaction, and a description of the financial accounting standards applied by the affiliated entities;

4) documents with a significant influence on the amount of the transaction price, and in particular the provisions of contracts, agreements and other documents indicating the intentions of the parties;

5) proposals for the validity period of the agreement;

6) a list of affiliated entities with whom the transaction is to be concluded, including their consent to submit to the competent authority all documents concerning such transactions and to provide the necessary explanations.

Art. 20g. Procedure of explaining doubts.

§ 1. If there are doubts as to the method of setting the transaction price by the applicant and the principles for the application thereof, or contents of the documents enclosed to the application, the competent authority will request an explanation of the doubts or the submission of supplementary documents.

§ 2. In order to explain the doubts referred to in § 1, the competent authority may organise a reconciliatory meeting.

§ 3. Minutes from the reconciliatory meeting shall be drawn up. In addition, the course of the meeting may also be recorded by audiovisual recording devices or on IT data carriers.

Art. 20h. Amendment of the proposal of the selection and application of the method for fixing transaction price.

§ 1. Subject to § 2, the applicant may amend the proposal of the selection and application of the method for fixing the transaction price until the decision is issued.

§ 2. Where, in the course of the proceedings, the competent authority establishes the existence of obstacles that do not allow the acceptance of the selection and the application of the method for setting the transaction price described in the application, the authority will notify the applicant of these obstacles and will also propose another transaction price setting method. The notice shall include a factual and legal justification. The applicant may change the application or submit additional explanations and documents within 30 days from the day of delivering the notice.

Art. 20i. Decision on the agreement.

§ 1. In matters of approving the correctness of the selection and the application of the method for setting the transaction price between affiliated entities, a decision shall be issued, hereinafter referred to as „the decision on the agreement“.

§ 2. The decision on the agreement shall be delivered to affiliated entities (domestic and foreign) with which transactions are to be concluded and, in the case of bilateral or multilateral agreements - also to the tax authorities competent for foreign entities and also the head of the tax office and the director of the tax inspection office competent for the applicant and the domestic entities affiliated thereto, the subjects being parties to the transaction covered by the decision on the agreement.

§ 3. The decision on the agreement shall, in particular, include:

- 1) the designation of entities covered by the agreement;
- 2) an indication of the value of the transactions covered by the agreement;
- 3) an indication of the type, the object of the transaction covered by the agreement and the period to which it relates;
- 4) an indication of the method for setting the transaction price, the price calculation algorithm and other rules for applying this method;
- 5) determining the essential conditions of applying the method referred to in item 4, taking into account the risk sharing functions performed by the entities and the commission earned by the entities referred to in item 1;
- 6) validity period of the decision.

§ 4. The validity period of the decision on an agreement cannot be longer than five years.

§ 5. The validity period of the decision on an agreement may be prolonged at the application of affiliated entities, submitted no later than six months before the lapse of that period, if the criteria of the method recognised in this decision for setting the transaction price between affiliated entities have not changed.

§ 6. The validity period of the decision on an agreement shall be prolonged in a decision.

Art. 20j. Unilateral agreement proceedings.

§ 1. Unilateral agreement proceedings shall be completed without unnecessary delay, but not later than within six months from the day of its initiation.

§ 2. Bilateral agreement proceedings shall be completed without unnecessary delay, but not later than one year from the day of its initiation.

§ 3. Multilateral agreement proceedings shall be completed without unnecessary delay, but not later than within 18 months from the day of its initiation.

Art. 20k. The amendment, reversal of the decision on an agreement.

§ 1. In the event of a change in business relations causing a gross inadequacy of the selection and application of the method for setting transaction price that was recognised as correct, the decision on an agreement may be amended or reversed by the competent authority before the lapse of the fixed validity period of the decision. The decision shall be amended or reversed at the party's request or *ex officio*.

§ 2. Proceedings initiated at the request of the party:

- 1) on amending a decision, shall be completed without unnecessary delay, but not later than within two months from the day of its initiation;
- 2) on reversing a decision, shall be completed without unnecessary delay, but not later than one month from the day of its initiation.

Art. 20l. Expiry of decision.

§ 1. In the event that the conditions referred to in Article 20i § 3 items 3-5 and determined in the decision on the agreement are not fulfilled, the competent authority will *ex officio* ascertain the expiry thereof.

§ 2. The decision stating the expiry referred to in § 1 will have legal effects from the day of delivering the decision the expiry of which it states.

Art. 20m. The application to recognise the correctness of the selection.

§ 1. Both the application to recognise the correctness of the selection and the application of the method of setting the transaction price between affiliated entities, as well as the application, referred to in Article 20i § 5, shall be subject to a fee paid to the account of the competent authority, within seven days from the day of submitting it.

§ 2. The amount of the fee paid upon submitting the application for an agreement shall amount to one per cent of the value of the transaction that is the object of the agreement, however, in the case of:

- 1) a unilateral agreement:
 - a) that refers only to domestic entities - it shall amount to no less than 5,000 PLN and no more than 50,000 PLN,
 - b) referring to a foreign entity - it shall amount to no less than 20,000 PLN and no more than 100,000 PLN;
- 2) a bilateral or multilateral agreement - it shall amount to no less than 50,000 PLN and no more than 200,000 PLN.

§ 3. The fee paid upon submitting an application to prolong the validity period of the decision on an agreement shall amount to a half of the fee due for submitting an application to conclude an agreement.

Art. 20n. Supplementary fee.

§ 1. If, in the course of proceedings for concluding an agreement, the competent authority states that the value of the transaction that may be the object of the agreement was understated in the submitted application, the tax authority will fix the amount of the supplementary fee, calculated in accordance with Article 20m § 2.

§ 2. The ruling on the supplementary fee may be complained against.

Art. 20o. Income of the State Budget. The fees referred to in Articles 20m and 20n, shall constitute income of the State Budget.

Art. 20p. Cost of the proceedings. The cost of the proceedings referred to in Article 265 § 1 items 1 and 3 will burden the entity submitting an application for recognition of the correctness of the selection and application of the method for setting the transaction price between affiliated entities.

Art. 20q. Application accordingly. In matters not regulated in this chapter, the provisions of Section IV shall apply accordingly.

Art. 20r. Application accordingly. The provisions of this chapter shall apply accordingly to relationships between an entity with its registered office or establishment in the territory of one state, and a foreign establishment within the meaning of the tax law provisions relating to personal income tax and corporate income tax, to the extent to which part of the income is allocated to the domestic entity.

Dział III. Tax Obligations.

Rozdział 1. The Tax Obligation Arising.

Art. 21. Arising of a tax obligation.

§ 1. A tax obligation arises on the day when:

- 1) an event occurs with which the tax act associates the creation of such an obligation;
- 2) the decision of a tax authority is delivered whereby the amount of that obligation is determined.

§ 2. If the provisions of tax law impose an obligation on the taxpayer to submit a tax return and the tax obligation arises in manner specified in § 1 clause 1, the tax indicated in the tax return will be a tax to be paid, subject to §3.

§ 3. If, in the course of the tax proceedings, the tax authority establishes that the taxpayer, despite the duty, has not paid any or all of the tax, has not submitted a tax return, or that the amount of the tax obligation is different from the one indicated in the tax return, the tax authority will issue a decision determining the amount of the tax obligation.

§ 3a. If, in the course of the tax proceedings, the tax authority establishes that the amount of tax refund or amount of excess of input tax over output tax, within the meaning of Goods and Services Tax Act differs to what is indicated in the tax return, the tax authority will issue a decision determining the correct amount of tax refund or excess of input tax over output tax.

§ 4. The provisions of § 3 and Article 53a shall apply accordingly if the taxpayer is obliged to pay tax, an advance on tax or a tax instalment without submitting a tax return, and the taxpayer has not performed any or all of the obligation.

§ 5. If the provisions of tax law impose on the taxpayer an obligation to submit the tax return, the amount of the tax obligation referred to in § 1 item 2 will be determined accordingly to the information included in the tax return, unless separate provisions provide another manner of determining the amount of the tax obligation, or in the course of tax proceedings it was found that the data included in the tax return, which may be relevant for the amount of the tax obligation, are not consistent with the facts.

Art. 21a. Tax relief. A taxpayer intending to benefit from a relief that is conditional, as specified in separate provisions, on there being no tax arrears, may submit an application to the competent tax authority to conduct tax proceedings. The provisions of Article 21 § 3 shall apply accordingly to the issue of a decision determining the amount of the tax obligation.

Art. 21b. Decision determining the amount of income. If, in the course of the tax proceedings, the tax authority finds that:

- 1) the amount of income is different to that indicated in the tax return, and the income earned does not result in arising of a tax obligation,

2) the tax return shows a loss, and the amount of income earned does not result in a tax obligation arising, - then the tax authority will issue a decision determining the amount of that income.

Art. 22. Release from determining and collecting tax.

§ 1. In cases legitimated by an important public interest or an important interest of the taxpayers, the minister responsible for public finances may, in a regulation:

- 1) waive all or part of the collection of taxes, specifying the type of the tax, the period of the waiver and the groups of taxpayers included thereby;
- 2) exempt certain groups of taxpayers from the duty to collect taxes or tax advances, and specify a deadline for tax payment and informational duties of taxpayers resulting from the exemption, unless the taxpayer is obliged to make an annual or other periodic settlement of the tax.

§ 1a. The regulation referred to in § 1 item 1 relating to a waiver of the collection of taxes from taxpayers conducting economic activity who, as a result of waiving the collection of taxes, become beneficiaries of public aid within the meaning of the provisions of the Act on Proceedings in Public Aid Cases, being public aid will include an aid programme specifying the purpose and conditions of eligibility for public aid.

§ 2. The tax authority, at the request of the taxpayer, may exempt the taxpayer from the duty to collect tax, if:

- 1) the collection of the tax threatens the taxpayer's important interest, and in particular his existence, or
- 2) the taxpayer substantiates that the collected tax would be disproportionately high in relation to the tax due for the tax year or other settlement period.

§ 2a. The tax authority, at the request of the taxpayer, may limit the collection of tax advances, if the taxpayer substantiates that a tax advance calculated according to the tax law would be disproportionately high in relation to the tax due on income anticipated for the given tax year.

§ 3. *(repealed)*

§ 4. *(repealed)*

§ 5. In the case of issuing a decision pursuant to § 2, the tax authority shall determine the deadline for the tax payment or the tax advance payment, unless the taxpayer is obliged to make an annual or other periodic settlement of the tax.

§ 6. The minister responsible for of public finances will issue a regulation determining the material competence of the tax authorities in the matters referred to in § 2 and 2a.

Art. 23. Estimation of the taxable base.

§ 1. The tax authority shall determine the taxable base by estimation, if:

- 1) there are no tax books or other data necessary to determine it, or
- 2) the data resulting from the tax books do not allow the taxable base to be determined, or
- 3) the taxpayer has breached the conditions entitling him or her to lump-sum taxation.

§ 2. The tax authority will cease the determination of the taxable base by estimation if data resulting from the tax books, supplemented by evidence collected in the course of the proceedings, allows the taxable base to be determined.

§ 3. The taxable base will be determined by estimation, by applying the following methods:

- 1) an internal comparison - consisting in comparing the amount of turnover in the same enterprise for previous periods for which the amount of turnover is known;
- 2) external comparison - consisting in comparing the amount of turnover in other enterprise pursuing a business activity of a similar scope and in similar conditions;
- 3) inventory - consisting in comparing the value of the assets of the enterprise at the beginning and at the end of the period, taking into account the turnover speed index;
- 4) production - consisting in determining the production capacity of the enterprise;
- 5) cost - consisting in determining the amount of turnover on the basis of the amount of costs incurred by the enterprise, taking into account the share of these costs in the turnover;
- 6) income share in the turnover - consisting in determining the amount of income from the sales of specific goods and the provision of specific services, taking into account the share of such sales (services provided) in the total turnover.

§ 4. Under especially justified circumstances, where it is impossible to apply the methods referred to in § 3, the tax authority may estimate the taxable base in another way.

§ 5. The determination of the taxable base by estimation should aim to determine its amount near to the actual taxable base. The tax authority determining the taxable base by estimation should justify the choice of the estimation method.

Art. 23a. Tax advance payment. If the taxable base was determined by estimation and a taxpayer is obliged to pay tax advances, the tax authority will determine the amount of the advances for the period for which the taxable base was estimated, in proportion to the amount of tax obligation for the whole fiscal year or other settlement period. The provisions of Article 53a shall apply accordingly.

Art. 24. Estimation of the loss. The tax authority will issue a decision determining the amount of losses incurred by a taxpayer if, in the course of tax proceedings, it found that the taxpayer did not submit a tax return, has no loss shown in his or her tax return or the amount of loss incurred differs from the amount shown in the submitted tax return, and incurring a loss pursuant to the provisions of tax law entitles him or her to tax relief.

Art. 24a *(repealed)*

Art. 24b *(repealed)*

Art. 25 *(repealed)*

Rozdział 2. The Liability of the Taxpayer, Tax Remitter and Tax Collector.

Art. 26. General rule. The taxpayer shall be liable for taxes resulting from the tax obligations up to the value of all his or her assets.

Art. 26a. Scope of the taxpayer's liability.

§ 1. The taxpayer shall not be liable for an understatement or non-disclosure by tax remitter of the taxable base of the activities, referred to in Articles 12, 13 and 18 of the Personal Income Tax Act of 26 July 1991 (J.L. of 2000, No. 14 item 176 as amended) - up to the amount of the tax advance that the tax remitter is obliged to collect.

§ 2. In the case referred to in § 1, the provisions of Article 30 § 5 will not apply.

Article 27

(repealed)

Art. 28. Wages of tax remitters and tax collectors.

§ 1. Tax remitters and tax collectors are entitled to flat-rate remuneration for the timely payment of withheld taxes to the State budget.

§ 2. If it is discovered that the tax remitter or tax collector collected remuneration that is undue or in a higher amount than due, the tax authority will issue a decision on returning the undue remuneration.

§ 3. The minister responsible for public finances will issue a regulation determining:

1) detailed rules of determining the remuneration of tax remitters and tax collectors collecting taxes for the benefit of the State budget, in relation to the amount of collected taxes, and the procedure for collecting the remuneration.

2) detailed rules and procedure for returning the received remuneration if tax remitters and tax collectors have collected tax, tax advances or tax instalments unduly or in a higher amount than due.

§ 4. The district council, county council and voivodship legislative body may determine the remuneration for tax remitters or tax collectors for collecting tax as the budget income of the district, county or voivodship respectively.

Art. 29. Joint marital property of.

§ 1. In the case of married persons, the liability referred to in Article 26 covers the taxpayer's separate property and the joint marital property of the taxpayer and his or her spouse.

§ 2. The legal effects of a limitation, dissolution, exclusion or cessation of joint ownership do not refer to tax obligations that arose before the day of:

1) the conclusion of an agreement limiting or excluding statutory joint marital property;

2) the dissolution of joint marital property by a final and valid court ruling;

3) the cessation of joint marital ownership in case of spouse's incapacitation;

4) a court ruling on separation became final and valid.

§ 3. The provisions of § 1 and 2 shall apply accordingly to the tax remitter and tax collector.

Art. 30. Liability for taxes of legal persons.

§ 1. A tax remitter that did not perform the duties referred to in Article 8 shall be liable for the uncollected tax, or for the tax collected but not paid.

§ 2. A tax collector that did not perform the duties referred to in Article 9 shall be liable for the tax collected but not paid.

§ 3. The tax remitter or the tax collector shall be liable for the receivables referred to in § 1 or 2, up to the value of all their assets.

§ 4. If, in the course of tax proceedings, the tax authority ascertains the circumstances referred to in § 1 or 2, the tax authority will issue a decision on the tax remitter's or tax collector's tax liability, in which it will determine the amount due by virtue of the uncollected tax, or for the tax collected but not paid.

§ 5. The provisions of § 1-4 shall not apply if separate provisions provide otherwise, or the tax was not collected due to the taxpayer's fault; in such cases the tax authority shall issue a decision on the taxpayer's liability.

§ 6. The tax authority may also issue the decision referred to in § 4 and 5 after the end of the fiscal year or another settlement period.

Art. 31. Legal persons' liability. Legal persons and organisational entities without legal personality that are tax remitters or tax collectors shall appoint persons whose duty it is to calculate and collect taxes, and to pay the collected amounts to the tax authority on time, and also to notify the locally competent tax authority of their names, surnames and addresses. The notification must be made by the deadline for first payment, and if the appointed person changes - within 14 days from the day on which another person was appointed.

Art. 32. Storage of documents.

§ 1. Tax remitters and tax collectors are obliged to keep the documentation regarding tax collection or tax encashment until the lapse of the limitation period of the tax remitter's or tax collector's obligation.

§ 1a. If a legal person or an organisational entity without legal personality is liquidated or dissolved, the entity that arranges the liquidation or dissolution notifies the competent tax authority, in writing, no later than on the last day of the legal person's or the organisational unit's existence, about the place of storage of the documentation regarding tax collection or tax encashment.

§ 2. After the lapse of period referred to in § 1, tax remitters and tax collectors are obliged to transfer documents regarding tax collection or tax encashment to the taxpayers; if their transfer to the taxpayer is impossible, the documentation will be destroyed.

Rozdział 3. Securing the Performance of Tax Obligations.

Art. 33. Securing before payment deadline.

§ 1. The tax obligation may be secured on the taxpayer's property, and in case of married persons, also on their marital joint property before the payment deadline, if there is a justified doubt of its non-performance, and in particular if the taxpayer permanently does not perform his or her public obligations, or performs the activities of property transfer that may obstruct or prevent the execution. In the case of security on marital joint property, the provision of Article 29 § 2 shall apply accordingly.

§ 2. In the cases indicated in § 1, the security may also be established in the course of tax proceedings or a tax inspection, before issuing a decision:

- 1) establishing the amount of the tax obligation;
- 2) determining the amount of the tax obligation;
- 3) determining the amount of a tax refund.

§ 3. In the case referred to in § 2 item 2, the amount of default interest due on the day of issuing the decision on security shall also be secured, subject to Article 54 § 1 item 1.

§ 4. In the case referred to in § 2, the tax authority, on the basis of the information available on the amount of the taxable base, shall issue a decision on security to determine:

- 1) the approximate amount of the tax obligation, in case the security is established before issuing the decision referred to in § 2 item 2;
- 2) the approximate amount of the tax obligation and the amount of default interest due on the day of issuing the decision, in case the security is established before issuing the decision referred to in § 2 item 2.

§ 5. (*repealed*)

Art. 33a. Expiry of a decision on security.

§ 1. The decision on security shall expire:

- 1) 14 days after the delivery of the decision establishing the amount of the tax obligation;
- 2) on the day that the decision determining the amount of the tax obligation is delivered;
- 3) on the day that the decision determining the amount of a tax refund is delivered.

§ 2. The expiry of the security decision shall not infringe a security order issued on the basis of the administration enforcement proceedings provisions.

Art. 33b. Security on the property. The provision of Article 33 shall apply accordingly to the security on the property of:

- 1) a tax remitter or tax collector; the decision on security will expire on the day that the decision on tax liability is delivered;
- 2) the persons referred to in Articles 115, 116 and 116a, after the delivery of the decision on tax liability for a company's or another legal person's tax arrears, in case there are justified doubts as to the non-performance of the obligation by the company or other legal person, in particular when the company or other legal person permanently does not perform his due public law obligations, or performs activities of property transfer that can hinder or prevent the execution; the decision on security will expire if the taxpayer's property execution turns out to be entirely or partially ineffective.

Art. 33c. Default interest.

§ 1. The provisions of Article 33 § 2 item 2, § 4 item 2 and Article 33a § 1 item 2 shall apply accordingly to a decision determining the amount of default interest referred to in Article 53a.

§ 2. The provisions of Article 33 § 2 item 2 and 3, § 3, § 4 item 2, Article 33a § 1 items 2 and 3 and Article 33b shall apply accordingly to arrears referred to in Article 52 § 1.

Art. 33d. Performance of the decision.

§ 1. Securing the performance of the decision imposing an obligation enforceable according to the provisions on administration enforcement proceedings or enforcing the decision on security referred to in Article 33 shall be carried out according to the provisions on administration enforcement proceedings or according to § 2.

§ 2. Securing the performance of the decision will be carried out at the party's request by the tax authority accepting of security on the performance of the obligation resulting from the decision with the default interest, in the form of:

- 1) a bank or insurance guarantee;
- 2) a bank suretyship;
- 3) a bill of exchange guaranteed by a bank;
- 4) a cheque guaranteed by a domestic bank of the cheque drawer;
- 5) a registered pledge on securities, issued by the State Treasury or National Bank of Poland - according to their nominal value;
- 6) crediting the tax authority's deposit account;
- 7) a written, irrevocable authorisation of the tax authority, confirmed by a bank or a co-operative credit-saving fund, to exclusively dispose of funds accumulated on a term deposit.

§ 3. If an application for security in a manner referred to in § 2 is submitted, the security according to the provisions on administration enforcement proceedings, within the scope covered by the application, will be established after a ruling refusing to accept the security has been issued.

§ 4. If the application for the security in the manner referred to in § 2 was submitted after the security according to the administration enforcement proceedings provisions was established, the scope of security established according to the provisions on administration enforcement proceedings will be reversed or changed in terms of accepted security.

Art. 33e. Guarantor; surety. The guarantor or surety shall be entered in the register of guarantors referred to in Article 52 of the Customs Code of 19 March 2004 Q.L. of 2004 No. 68, item 622 and No. 273, item 2703).

Art. 33f. Choosing the type of security.

§ 1. The party may choose the type or types of security referred to in Article 33d § 2.

§ 2. If the security referred to in Article 33d § 2 is accepted, the party has the right to apply for an extension of the approved security deadline.

Art. 33g. Ruling on security approval. In the case of the security approval referred to in Article 33d § 2, or an extension of the deadline of security extension referred to in Article 33f § 2, a ruling shall be issued, which may be complained against.

Art. 34. Compulsory mortgage.

§ 1. The State Treasury and a local government unit shall be entitled to establish a mortgage on all real property of a taxpayer, tax remitter, tax collector, legal successor or third parties, by virtue of tax obligations that arise in the manner referred to in Article 21 § 1 item 2, as well as of tax arrears that constitute their income, and also by virtue of default interest on such arrears, hereinafter referred to as the „compulsory mortgage”.

§ 2. In terms of tax obligations that constitute the income of local government units that are collected by the tax office, an application to enter a compulsory mortgage shall be submitted to court by the competent head of the tax office.

§ 3. A compulsory mortgage may be established on:

- 1) a fractional part of the title to the real property, provided it is the taxpayer's share,
- 2) real property that is the joint co-ownership of the taxpayer and his or her spouse,
- 3) real property that is the joint co-ownership of the partners in a civil law partnership, or a fractional part of the title to the real property that is a share in a civil law partnership - due to the partnership's tax arrears.

§ 4. A compulsory mortgage may also be established on:

- 1) the right of perpetual usufruct,
- 2) the co-operative ownership right to an apartment,
- 3) the co-operative ownership right to commercial premises,
- 4) the right to a single-family house in a housing co-operative,
- 5) a debt secured by a mortgage.

§ 5. The provisions on mortgage on real property apply accordingly to mortgages referred to in § 3 and 4.

§ 6. The provisions of § 2-5 apply accordingly to tax receivables due from a tax remitter, a tax collector, a legal successor or third parties.

Art. 35. Establishment of a compulsory mortgage.

§ 1. Subject to Article 38 § 2, a compulsory mortgage shall be established by an entry in the land and mortgage register.

§ 2. A compulsory mortgage shall be entered on the basis of:

- 1) a delivered decision:
 - a) establishing the amount of the tax obligation,
 - b) determining the amount of the tax obligation,
 - c) determining the amount of default interest,
 - d) on the tax liability of a taxpayer or a tax collector,
 - e) on the tax liability of a third party,
 - f) on the tax liability of an inheritor,
 - g) determining the amount of a tax refund;
- 2) an enforcement title or security order, if it may be issued pursuant to the provisions on administration enforcement proceedings regulations without issuing a decision mentioned in item 1.

§ 3. A compulsory mortgage shall be entered in the land and mortgage register by the competent district court at the motion of the tax authority.

Art. 36 (repealed)

Art. 37 (repealed)

Art. 38. Application to establish a land and mortgage register.

§ 1. The tax authorities are entitled to apply to establish a land and mortgage register for the real properties of a taxpayer, tax remitter, tax collector, legal successors and third parties liable for tax arrears.

§ 2. If the subject of a compulsory mortgage is not entered in a land and mortgage register, the tax obligations shall be secured by submitting an application for an entry to be made in the set of documents.

Art. 39. Disclosure of the subject of a compulsory mortgage.

§ 1. If, in the course of tax proceedings or a tax inspection there is a justified doubt as to the non-performance of a tax obligation, the tax authority will summon the party or inspected entity to submit a statement on:

- 1) real properties or property rights that may be subject to a compulsory mortgage;
- 2) movables or negotiable property rights that may be a subject to a treasury lien.

§ 2. The party or inspected party may refuse to submit such a statement.

§ 3. The statement is submitted under the threat of criminal liability for false testimony. Criminal liability for false testimony shall not be imposed for a failure to provide the estimated value of goods or property rights, or for providing a value that does not correspond to the actual value of the disclosed goods or rights.

§ 4. The tax authority shall notify the summoned entity of its right to refuse to submit such a statement and of criminal liability for false testimony.

§ 5. To ensure the uniformity of statements, the minister responsible for public finances will issue a regulation determining the template for statements referred to in § 1, taking into account:

- 1) data identifying the person submitting the statement;
- 2) the type, location and real estate area, type of property right that may be subject to a compulsory mortgage, the location of an item that is a subject to a property right, the number of the land and mortgage register or collection of documents and the designation of the court competent for keeping the land and mortgage register or collection of documents, the legal status of real property with potential encumbrances, and the estimated value of real property or rights;
- 3) the type of movables and negotiable property rights that may be a subject to a treasury lien, data identifying such movables or rights with potential encumbrances and the estimated value of real property or rights.

Art. 40 (repealed)

Art. 41. Treasury lien.

§ 1. The State Treasury and local government units shall be entitled, by virtue of the tax obligations that have arisen in a manner referred to in Article 21 § 1 item 2, and also by virtue of tax arrears constituting their income and default interest, to establish a treasury lien on all the movables and negotiable property rights that are owned by the taxpayer, or are subject to joint co-ownership of the taxpayer and his or her spouse, provided that the value of the particular goods or rights on the day of entering a pledge is at least 11,300 PLN, subject to § 2.

§ 2. Goods or property rights that may not be seized or mortgaged may not be encumbered with a treasury lien.

§ 3. The provisions of § 1 shall apply accordingly to tax receivables from tax remitters, tax collectors, legal successors and third parties liable for tax arrears.

Art. 42. Establishment of a treasury lien.

§ 1. A treasury lien arises on the day it is entered into the register of treasury liens.

§ 2. A treasury lien entered earlier shall have priority over a treasury lien entered later.

§ 3. A treasury lien shall be effective against each owner of the subject of the lien and shall have priority over his or her personal creditors, subject to §4.

§ 4. Where the movables or property rights were encumbered with a lien in a different register kept on the basis of separate provisions, the lien entered earlier has priority over the lien entered later.

§ 5. The treasury lien shall expire:

- 1) by force of law when the tax obligation expires or
- 2) when the entry in treasury lien register is deleted, or
- 3) on a day of an enforcement sale of the subject of the lien.

§ 6. The taxpayer, tax remitter and tax collector, legal successor or the third party liable for tax obligations shall be notified by a head of the tax office of entering the lien into the register, or the expiry of the lien, subject to Article 42a § 2.

§ 7. Satisfaction from the subject of treasury lien shall be carried out in accordance with the provisions on administration enforcement proceedings.

Art. 42a. Striking off an entry from the treasury lien register.

§ 1. An entry into the register of treasury liens shall be struck off if, on the day of arranging the entry, the goods or rights encumbered with a treasury lien were not the property of the taxpayer, tax remitter, tax collector, the legal successor or the third party liable for tax arrears. The application to delete the entry shall be submitted within seven days from the day on which a person claiming his property right learned of the lien being established.

§ 2. If an entry is struck off the registry of treasury liens in the case mentioned in § 1, a decision will be issued.

Art. 43. Registers of treasury liens.

§ 1. Registers of treasury liens are kept by heads of tax offices.

§ 2. The Central Register of Treasury Liens is kept by the minister responsible for public finances.

Art. 44. Entry into a register.

§ 1. A treasury lien shall be entered in the register on the basis of a delivered decision:

- 1) establishing the amount of the tax obligation;
- 2) determining the amount of the tax obligation;
- 3) determining the amount of default interest;
- 4) on the tax liability of a taxpayer or a tax collector;
- 5) on the tax liability of a third party;
- 6) on the tax liability of an inheritor;
- 7) determining an amount of a tax refund.

§ 2. The tax obligations arising in the manner referred to in Article 21 § 1 item 1 may also be entered on the basis of the declaration, provided that the tax liability indicated therein was not performed. The entry into the treasury lien register may not be made earlier than within 14 days after the repayment deadline for the tax liability.

§ 3. The provisions of § 2 shall apply accordingly to the obligations of tax remitters or tax collectors.

Art. 45. The list of movable goods. The tax authority shall take an inventory of movable goods and negotiable property rights that may be encumbered by a treasury lien.

Art. 45a (repealed)

Art. 46. Extract from the register.

§ 1. At the request of an interested party, the authority keeping the register shall issue an excerpt from the register of treasury liens, including information on goods or rights encumbered with a treasury lien, and on the amount of tax obligations or tax arrears secured by the treasury lien.

§ 2. A fee, constituting an income of the State budget, shall be collected for issuing the excerpt referred to in § 1.

§ 2a. The issue of the excerpt mentioned in § 1 does not prejudice the provisions on fiscal secrecy.

§ 3. The minister responsible for public finances will issue a regulation determining:

- 1) a template for the registers referred to in Article 43, the procedure of keeping such registers, taking into account the term of entering a treasury lien into the register and the term of transferring information from the registers to the Central Register of Treasury Liens;
- 2) the amount of the fee referred to in § 2, taking into account the costs related to issuing the extract.

Rozdział 4. Payment Deadlines.

Art. 47. Tax payment deadlines.

§ 1. The tax payment deadline shall be 14 days from the day of delivering the decision establishing the amount of the tax obligation.

§ 2. If the provisions of tax law indicate calendar deadlines for a tax payment, tax advance or instalment tax payment, and the decision establishing the amount of the tax obligation has not been delivered at least 14 days before the deadline for the tax payment, the first tax advance or the first tax instalment, then the deadline indicated in § 1 shall apply.

§ 3. If the taxpayer is obliged to calculate and pay tax by him or herself, the payment deadline shall be considered the last day on which, under the provisions of tax law, the payment of tax receivables should be made.

§ 4. The payment deadline for tax remitters shall be the last day on which, under the tax law provisions, tax payment should be made.

§ 4a. The payment deadline for tax collectors shall be the day following the last day on which under the provisions of tax law, tax payment should be made, unless the competent legislative body of the local government unit has set a later deadline.

§ 5. The minister responsible for public finances may determine, in a regulation, the payment deadlines of individual taxes, tax advances or tax instalments, setting the day, month and year in which the payment deadline elapses.

Art. 48. Postponement of the deadlines.

§ 1. The tax authority, at the application of a taxpayer, in cases justified by the taxpayer's important interest or the public interest, may postpone deadlines set out in the provisions of tax law, except for the deadlines indicated in Articles 68-71, Article 77 § 1-3, Article 79 § 2, Article 80 § 1, Article 87 § 3 and 4, Article 88 § 1 and Article 118.

§ 2. The provisions of § 1 shall apply accordingly to the deadlines concerning tax remitters or tax collectors.
§ 3. The minister responsible for public finances will define in a regulation, the material competence of the tax authorities in cases referred to in § 1, taking into account the competence of the authorities within the scope of activities for which deadlines are set out, and the deadlines for postponement are granted.

Art. 49. Payment deadline.

§ 1. If the decision is issued on the basis of Article 67a § 1 items 1 or 2, the new payment deadline will be the day on which, according to the decision, the payment of tax or tax arrears with default interest, or the payment of individual instalments into which the tax or tax arrears with default interest were spread, should be made.

§ 2. If the taxpayer has not paid the postponed tax or tax arrears with default interest, or any instalment into which the tax or tax arrears with default interest were spread, the deadline for the payment of tax or tax arrears being a subject of postponement or spreading into instalments becomes respectively the deadline referred to in Article 47 § 1-3.

§ 3. The provisions of § 1 and 2 shall apply accordingly to the postponed or spread into instalments receivables from tax remitters or tax collectors.

Art. 50. Delegation of entitlements-deadlines. The minister responsible for public finances may issue a regulation extending the deadlines set out in tax law provisions, except for the deadlines referred to in Articles 68-71, Article 77 § 1, Article 79 § 2, Article 80 § 1, Article 87 § 3 and 4, Article 88 § 1 and Article 118, determining the categories of taxpayers for whom the deadlines were extended, the categories of activities for which performance deadlines were extended, and the day of on which the extended deadline elapses.

Rozdział 5. Tax Arrears.

Art. 51. Tax arrears.

§ 1. Tax arrears is tax not paid by the payment deadline.

§ 2. Tax arrears also covers a tax advance payment not paid by the payment deadline, including the tax advance referred to in Article 23a or tax instalment.

§ 3. The provisions of § 1 and 2 apply to tax, tax advances, and tax instalments not paid by the tax collector or tax remitter by the payment deadline.

Art. 52. Others tax arrears.

§ 1. Tax arrears also covers:

1) overpayment, if it was indicated in a tax statement or tax return referred to in Article 73 § 2, unduly or in an amount higher than the amount due, and the tax authority has returned it or accounted it towards tax arrears or current or future tax obligations;

2) tax refund, if the taxpayer received it unduly or in an amount higher than the amount due, or it was credited towards current or future tax obligations, unless the taxpayer proves that it did not occur due to its fault;

3) the remuneration of taxpayers or tax collectors collected unduly or in the amount higher than the amount due;

4) interest accrued on an undue overpayment or tax refund refunded or credited towards outstanding, current or future tax obligations.

§ 1a. The provisions of § 1 item 2 shall apply accordingly to:

1) a former partner of a partnership without legal personality,

2) a natural person who ceased pursuing economic activity

- within the scope of a tax refund made after the dissolution of the legal entity in the case referred to in item 1, or after ceasing to pursue economic activity in the case referred to in item 2, in accordance with separate provisions.

§ 2. The provisions of § 1 items 1 and 2 shall not apply if the tax overpayment or tax return is refunded in accordance with the procedure provided for in Article 274.

Rozdział 6. Default Interest and Extension Fee.

Art. 53. Charging default interest.

§ 1. Default interest shall accrue on tax arrears, subject to Article 54.

§ 2. The provision of § 1 shall also apply to receivables referred to in Article 52 § 1, and tax advances not paid by the payment deadline, in the part exceeding the amount of tax due for the fiscal year.

§ 3. Default interest shall be charged by the taxpayer, tax remitter, tax collector, legal successor or third party liable for tax arrears, subject to Article 53a, Article 62 § 4, Article 66 § 5, Article 67a § 1 items 1 or 2 and Article 76 a § 1.

§ 4. Default interest shall be charged from the day following the tax payment deadline, or the deadline by which the taxpayer or the tax collector was obliged to pay it to the tax authority's account.

§ 5. In the cases referred to in Article 52 § 1, default interest will be charged respectively from the day when:

1) the overpayment, tax or instalments were refunded or credited towards the tax arrears or current or future tax obligations;

2) the remuneration was collected.

Art. 53a. Determining the amount of default interest.

§ 1. If, in the course of the tax proceedings, after the end of a fiscal year or other settlement period, the tax authority finds that the taxpayer, despite a duty to do so, did not submit a tax return, or the amount of tax advances is different to the amount indicated in a tax return, or tax advances were not paid in full or at all, the tax authority will issue a decision determining the amount of default interest on the day of submitting a tax statement, or as of another settlement period, and if the statement has not been submitted by the deadline - the interest as on the last day of the deadline for submitting a tax statement, assuming the correct amount of the tax advance payments.

§ 2. The provision of § 1 applies accordingly to tax advances on goods and services tax.

Art. 54. Exemption from default interest.

§ 1. Default interest shall not be charged:

- 1) for the period of security, on the amount of secured obligation, if secured funds, including amounts obtained from sale of goods or rights covered by security, were credited to tax arrears;
- 2) for the period from the day following the lapse of the deadline referred to in Article 227 § 1, until the day on which the appellate authority receives the appeal;
- 3) for the period from the day following the lapse of the deadline referred to in Article 139 § 3, to the day on which the appellate authority's decision is delivered, if the appellate authority's decision was not issued by the deadline referred to in Article 139 § 3;
- 4) in case of the suspension of proceedings *ex officio* - from the day of issuing the ruling on the suspension of the proceedings, to the day on which of the decision on the resumption of the suspended proceeding is delivered;
- 5) if the amount of default interest does not exceed three times the additional fee that is charged by „Polish Post” Joint Stock Company (*Poczta Polska Spółka Akcyjna*) for a registered letter;
- 6) (*repealed*)
- 7) for a period from the day of initiating tax proceedings to the day on which the first instance authority's decision is delivered, if the decision was not delivered within three months from the initiation of the proceedings;
- 7a) for a period from the day following the lapse of two years after the day of submitting a declaration, on arrears concerning miscalculations committed in the declaration, or obvious mistakes, if they were not revealed by the tax authority during this period;
- 8) within the scope provided for in separate acts.

§ 2. The provisions of § 1 items 3 and 7 shall not apply if the party or the party's representative contributed to the delay in issuing the decision, or the delay was caused for reasons beyond the authority's control.

§ 3. The provisions of § 1 items 2, 3 and 7 shall also apply to the reversal of a decision, remanding a case for re-examination and ascertaining the decision's invalidity.

§ 4. The provision of § 1 item 1 shall apply accordingly to transferring previously seized goods or property rights towards tax obligations.

§ 5. (*repealed*)

Art. 55. Payment of default interest.

§ 1. Default interest shall be paid without the tax authority's summons.

§ 2. If the payment made does not cover the amount of tax arrears and the amount of default interest, the amount will be proportionally credited to tax arrears and default interest in relation to the amount of tax arrears to the amount of default interest on the day of payment.

Art. 56. Default interest rate.

§ 1. The default interest rate is 200 per cent of the basic Lombard loan interest rate, set in accordance with the provisions on the National Bank of Poland.

§ 1a. In the case of submitting a legally effective adjustment of the tax return with justification of the reasons and the payment of the entire tax arrears within seven days after the day of submitting the adjustment, a reduced default interest at the rate of 75 per cent of the rate referred to in § 1 will be applied. The default interest rate will be rounded up to two decimal points.

§ 1b. The provision of § 1a shall not apply to the adjustment of a tax return:

- 1) submitted after a notification of the intention to initiate a tax inspection had been delivered, and in cases where the notification shall not apply - after the completion of the tax inspection;
- 2) made as a result of inspection activities.

§ 2. The default interest rate shall be reduced or increased in relation to the basic Lombard loan interest rate reduction or increase as of the day the rate was changed.

§ 3. The minister responsible for public finances will announce the default interest rate referred to in § 1, and the reduced default interest rate referred to in § 1a, in the Polish Official Journal „*Monitor Polski*”.

Art. 57. Extension fee.

§ 1. In the decision issued on the basis of Article 67a § 1 items 1 or 2, concerning taxes constituting the State budget income, the tax authority shall establish a prolongation fee on the tax amount or tax arrears.

§ 2. The rate of the prolongation fee is 50 per cent of the default interest rate announced in accordance with Article 56 § 3.

§ 3. The amount of the prolongation fee shall be calculated by applying the prolongation fee rate effective as on the day on which the decision indicated in § 1 is issued.

§ 4. The prolongation fee shall be paid by payment deadlines referred to in Article 49 § 1; if the payment deadline is not met, the provisions of Article 49 § 2 and 3 and Article 55 § 2 shall apply accordingly.

§ 5. The prolongation fee shall not be imposed if a natural disaster or an individual misfortune were the reasons for issuing the decision referred to in § 1.

§ 6. The tax authority may refrain from establishing a prolongation fee, if the decision referred to in § 1 is issued in connection with arrangement proceedings or in accordance with separate acts.

§ 7. The district council, county council and voivodship local legislative body may introduce a prolongation fee - in an amount not exceeding that referred to in § 2 - for spreading into instalments or deferring the deadline for the payment of tax and tax arrears, constituting the income of the district, county or voivodship respectively. The provisions of § 3-5 shall apply accordingly.

§ 8. The provisions of § 1-4 and 7 shall also apply to deferred or spread into instalments obligations of tax remitters or tax collectors, legal successors and third parties.

Art. 58. Delegation. The minister responsible for public finances will issue a regulation determining detailed rules for calculating default interest and an extension fee.

Rozdział 7. Expiry of Tax Obligations.

Art. 59. Expiry of an obligation.

§ 1. A tax obligation shall partially or fully expire, as a result of:

- 1) payment;
- 2) collection of tax by a tax remitter or tax collector;
- 3) deduction;
- 4) crediting an overpayment or tax refund;
- 5) waving a collection;
- 6) transfer of ownership of things or property rights;
- 7) seizing real property or property rights in enforcement proceedings;
- 8) remission of arrears;
- 9) limitation;
- 10) exemption from the duty to pay on the basis of Article 14m.

§ 2. The obligation of the taxpayer or tax collector shall partially or fully expire as a result of:

- 1) payment;
- 2) crediting an overpayment or tax refund;
- 3) remission in cases referred to in Article 67d § 3;
- 4) seizing the ownership of real property or property right in enforcement proceedings;
- 5) limitation;
- 6) exemption from the duty to pay on the basis of Article 14m.

Art. 60. Deadline for payment.

§ 1. The date of making a tax payment shall be deemed as:

- 1) if paying cash - the day when the amount of tax is paid in the tax authority's cash-desk or into the bank account of this authority, at a post office, in the co-operative savings and credit union, or the day of collecting the tax by the tax remitter or tax collector;
- 2) in a non-cash operation - the day on which the taxpayer's bank account or the taxpayer's account in a co-operative savings and credit union is debited with the payment order.

§ 1a. In the case of a payment order from the taxpayer's bank account or account in a credit institution with its registered office or branch outside of the Republic of Poland, the day of debiting the account shall be deemed as the payment date if the paid amount is credited to the tax authority's bank account within five consecutive business days. If this deadline was not met, the tax payment date shall be deemed as the day of crediting the amount of the tax authority's bank account.

§ 2. The provisions of § 1 and 1a shall also apply to payments made by the tax remitter or tax collector.

§ 3. The minister responsible for public finances, in conjunction with the minister responsible for communications, and having consulted the opinion of the President of the National Bank of Poland, may issue a regulation determining the template for making a cash payment and a transfer order into the tax authority's bank account, taking into account the data identifying the person making the payment and the title of payment.

§ 4. Payment orders to the tax authorities may also be made in the form of an electronic document, using software provided by banks or other financial institution authorised to receive payment orders or other methods agreed with the bank or other institution accepting the order.

§ 5. The payment order referred to in § 4 must include data identifying the person making the payment, including the tax identification number and it must indicate the title of the payment, though where such information is not given or is given incompletely, it shall constitute the basis of a refusal to accept a cash payment or to make a transfer order.

§ 6. Settlement of payment in favour of tax authorities shall be made through an interbank electronic clearance system in the national clearance organisation or through the inter-department electronic clearance system of the National Bank of Poland.

Art. 61. Non-cash payment.

§ 1. Payment of taxes by taxpayers pursuing economic activity and obliged to keep an account book or book of receipts and expenses shall be made by payment order.

§ 1a. The payment of stamp duty by the taxpayers referred to in § 1 may be made in cash.

§ 1b. The payment of taxes by micro-enterprises within the meaning of the Act on the Freedom of Economic Activity of 2 July 2004 (J.L. of 2007, No. 155 item 1095, as amended) may also be made in cash.

§ 2. The manner of settlements referred to in § 1 shall also apply to amounts of taxes collected by tax remitters, if the tax remitters meet the requirements determined in § 1.

§ 3. The provision of § 1 shall not apply:

- 1) to the payment of taxes not related to the pursued economic activity;
- 2) when tax payment is, in accordance with the provisions of tax law, made by securities or excise duty marks;
- 3) to the collection of taxes by tax remitters or tax collectors.

§ 4. The minister responsible for public finances may, in a regulation, allow the payment of specified taxes to be made in securities, determining detailed rules for the application of this manner of payment, the deadline and method of making payment, the type of security and the manner of calculating its value for the purpose of making the tax payment.

Art. 61a. Payment of tax by payment card.

§ 1. Commune council, county council and voivodship legislative body may issue a resolution allowing the payment of taxes constituting the income of a commune, county or voivodship budget to be made by a payment card.

§ 2. In the event referred to in § 1, the day of making a tax payment will be deemed as the day of debiting the bank account of the taxpayer, tax remitter or tax collector, or the account of the taxpayer, tax remitter or tax collector in a co-operative savings and credit union.

Art. 62. Numerous tax obligations.

§ 1. If a taxpayer has obligations arising from various titles, the payment made will be credited towards tax starting with the earliest payment deadline, unless the taxpayer specifies towards which obligation the payment is made.

§ 2. If a taxpayer has obligations by virtue of tax advances, the payment made will be credited towards a tax advance starting from the obligation with the earliest time payment deadline.

§ 3. The provision of § 1 shall apply accordingly in the case of making payments in lieu of instalments into which tax or tax arrears with default interest were spread, or in lieu of tax instalments.

§ 4. To payments credited to tax arrears, the provision of Article 55 § 2 shall apply. In the matter of crediting the payment to tax arrears a ruling shall be issued that may be complained against.

§ 5. The provisions of § 1, 3 and 4 apply accordingly to payments made by tax remitters, tax collectors, legal successors and third parties.

Art. 62a. Application accordingly. The provisions concerning the tax payment shall apply accordingly to crediting towards the tax obligation the cash accepted as security on the basis of Article 33d § 2, items 6 and 7.

Art. 63. Rounding off the taxable basis.

§ 1. Taxable bases, amounts of taxes, subject to § 2, default interest, extension fees, interest on overpayments and the remuneration of taxpayers, tax remitters and tax collectors shall be rounded off to full PLN in such a way so amounts that are less than 50 grosz shall be left out, and amounts that are 50 grosz or more shall be rounded up to full PLN.

§ 2. Rounding off the taxable base and tax will not apply to the fees referred to in the provisions on tax and local fees.

Art. 64. Deduction of claims.

§ 1. At a taxpayer's request, tax obligations and tax arrears with default interest constituting the income of the state budget shall be deducted against a mutual, undisputed and due claim of the taxpayer to the State Treasury, resulting from:

- 1) a final and valid court judgment issued on the basis of Article 417 or 417² of the Civil Code;
- 2) a valid court settlement concluded in connection with the occurrence of the circumstances provided for in Article 417 or 417² of the Civil Code;
- 3) the acquisition of real property by the State Treasury for the purpose of justifying its expropriation or the expropriation of real property in accordance with the provisions on real property management;
- 4) compensation for an unjust conviction, preliminary custody or detention, obtained in accordance with the provisions of the Code of Criminal Proceedings;
- 5) compensation received under the provisions on deeming invalid judgments conferred against persons persecuted because of their activities for the independent existence of the Polish state;
- 6) compensation awarded by a decision of a state government authority

§ 2. The provision of § 1 shall also apply to the mutual, undisputed and due taxpayer's claims to state budget units by virtue of public procurement resulting from agreements concluded under the provisions on public procurements, on the condition that the deduction is made by the taxpayer and against this claim.

§ 2a. The provision of Article 55 § 2 shall apply accordingly to the deduction of tax arrears with default interest.

§ 3. The deduction of claims referred to in § 1 and 2 may also be made *ex officio*.

§ 4. At the taxpayer's request, a claim referred to in § 1 and 2 may also be credited to future tax obligations.

§ 5. A deduction shall be made on the day of:

- 1) submitting an application that has been accepted;
- 2) issuing *ex officio* a ruling on deduction.

§ 6. A refusal to deduct shall be made in a decision.

§ 6a. The deduction shall be made in a ruling, which may be appealed against.

§ 7. A state budget unit whose obligation has been deducted from the taxpayer's claim, shall be obliged to pay a sum equivalent to the extinguished tax to the tax authority within seven days from the day of making a deduction. Default interest shall be charged on the equivalent of the extinguished tax that has not been paid by the deadline.

Art. 65. Deduction pursuant to a final and legally valid court decision.

§ 1. Taxpayers shall be also entitled to the right of deduction referred to in Article 64 § 1, in relation to the district, county or voivodship, as a result of:

- 1) a final and valid court judgment issued on the basis of Article 417 or 417² of the Civil Code;
- 2) a final and valid court settlement concluded in connection with circumstances provided for in Article 417 or 417² of the Civil Code;
- 3) the acquisition of real property by the district, county or voivodship for the purposes of justifying its expropriation or the expropriation of real property in accordance with the provisions of real estate management;
- 4) compensation awarded in a decision issued by village administrator, mayor of a town (president of the city), starost or voivodship marshal.

§ 2. The provisions of Article 64 § 2-1 apply accordingly.

Art. 66. Transferring ownership to the State Treasury.

§ 1. A particular case of a tax obligation expiring is the transfer of the ownership of a good or property rights for the benefit of:

- 1) the State Treasury - in return for tax arrears resulting from taxes constituting income of the state budget;
- 2) the district, county or voivodship - in return for tax arrears resulting from taxes constituting income of their budgets.

§ 2. The transfer shall be made at the request of the taxpayer:

- 1) in the case referred to in § 1 item 1, on the basis of an agreement concluded, upon the consent of the head of the tax office or the head of the customs office, between the starost performing a task within the government administration and the taxpayer;
- 2) in the case, referred to in § 1 item 2, on the basis of an agreement concluded between the village administrator, the mayor of a town (president of the city), starost, or voivodship marshal and the taxpayer.

§ 3. The agreement, referred to in § 2 must be made in writing.

§ 3a. The starost shall notify the competent head of a tax office or the head of a customs office of concluding the agreement referred to in § 2, at the same time sending a copy thereof.

§ 3b. Giving or refusing the consent referred to in § 2 item 1, must be made in a ruling.

§ 4. In the cases referred to in § 1, the tax obligation shall be deemed to expire on the day of transferring the ownership of the goods or property rights.

§ 5. In the case of concluding the agreement referred to in § 2, a tax authority of the first instance, shall issue a decision stating the expiry of the tax obligation. The provision of Article 55 § 2 shall apply accordingly.

Article 67

(repealed)

Rozdział 7a. Tax Payment Reliefs.

Art. 67a. Deferment, redemption at the request.

§ 1. A tax authority, at the taxpayer's request, subject to Article 67b, in cases justified by the taxpayer's important interest or the public interest may:

- 1) defer the tax payment deadline or spread the tax payment into instalments;
- 2) defer or spread into instalments tax arrears with default interest or interest determined in the decision referred to in Article 53 a;
- 3) remit all or part of the tax arrears, default interest or extension fee.

§ 2. The remission of tax arrears shall also result in the remission of all or part of the default interest on the part in which tax arrears were remitted.

Art. 67b. Tax relief catalogue.

§ 1. The tax authority, at the request of a taxpayer pursuing economic activity, may grant relief in the payment of the tax obligations referred to in Article 67a:

- 1) that do not constitute public aid;
- 2) that constitute *de minimis* aid - in the scope and on terms as specified in directly effective acts of Community law on the aid in terms of the *de minimis* rule;
- 3) that constitutes public aid:
 - a) granted for the purpose of compensating damages caused by natural disasters or other extraordinary events,
 - b) granted for the purpose of preventing or removing serious disruptions in the cross-sectoral economy,
 - c) granted for the purpose of supporting domestic entities operating within the scope of business ventures undertaken in the European interest,
 - d) granted for the purpose of promoting and supporting culture, national heritage, science and education,
 - e) being compensation for services provided in the general economic interest, entrusted on the basis of separate provisions,
 - f) for training,
 - g) for employment,
 - h) for the development of small and medium enterprises,
 - i) for restructuring,
 - j) for environmental protection,
 - k) for research and development works,
 - l) of a regional character,
 - m) granted for other purposes determined by the Council of Ministers on the basis of § 6.

§ 2. Tax relief referred to in Article 67a, in the case listed in § 1 item 3 letter a), may be granted as individual aid or within the framework of aid programmes provided for in separate provisions.

§ 3. Tax relief referred to in Article 67a, in the case listed in § 1 item 3 letters b)-e), letter j) and letter k), may be granted as individual aid consistent with government or local government programmes, or granted within the framework of aid programmes provided for in separate provisions.

§ 4. Tax relief referred to in Article 67a, in the case listed in § 1 item 3 letters f)-i), letter l) and letter m), may be granted after the detailed conditions determined on the basis of § 5 and 6 have been met.

§ 5. The Council of Ministers will issue regulations setting out the specific conditions of granting the tax relief referred to in Article 67a and in cases listed in § 1 item 3 letters f)-i) and letter l), with an indication of cases in which relief is granted as individual aid, taking into account the permitted allocations and conditions of public aid provided for in Community law provisions.

§ 6. The Council of Ministers may issue regulations setting out allocations of aid other than as referred to in § 1 item 3 letters a)-l), granted in the form of tax reliefs referred to in Article 67a, and the detailed conditions of granting relief for the allocations determined by the Council of Ministers with an indication of cases in which relief is granted as individual aid, taking into account the admissibility and conditions of granting public aid provided for in Community law provisions.

Art. 67c. Application accordingly.

§ 1. The provisions of Article 67a § 1 items 1 and 2 and Article 67b shall apply accordingly to receivables due from tax remitters' and tax collectors.

§ 2. The provisions of Article 67a and Article 67b shall apply accordingly to receivables due from taxpayer's heirs and third parties.

Art. 67d. Prerequisites of granting reliefs.

§ 1. The tax authority may, *ex officio*, grant relief from the payment of a tax obligation referred to in Article 67a § 1 item 3, if:

- 1) it is justifiably presumed that an amount exceeding execution expenses shall not be collected in the course of execution proceedings;
- 2) the amount of tax arrears does not exceed five times the cost of a payment reminder in execution proceedings;
- 3) the amount of tax arrears was not satisfied in completed liquidation or bankruptcy proceedings;
- 4) the taxpayer has died, leaving no property or leaving movables that cannot be the subject of execution in accordance with separate provisions, or leaving everyday household equipment with a total value not exceeding 5,000 PLN, and at the same time there are no heirs other than the State Treasury or a unit of local government, and it is not possible to decide on the tax liability of a third party.

§ 2. In the cases referred to in § 1 items 3 and 4, the decision on the remission of tax arrears shall be left in the case files.

§ 3. The provisions of § 1 items 3 and 4 and § 2 shall apply accordingly to the remission of tax arrears of a tax remitter and tax collector.

Art. 67e. Statutory authorisation. The minister responsible for public finances will issue a regulation determining the material competence of individual tax authorities in matters of applying tax reliefs, taking into account the amount of relief and the deadlines for tax or tax arrears payment.

Rozdział 8. Limitation.

Art. 68. Limitation period.

§ 1. The tax obligation referred to in Article 21 § 1 item 2 shall not arise if the decision establishing this obligation was delivered after the lapse of three years from the end of the calendar year in which the tax obligation arose.

§ 2. If the taxpayer:

- 1) failed to submit the tax return by the deadline provided for in tax law provisions,
 - 2) failed to reveal in the submitted tax return all the data necessary to establish the tax obligation,
- the tax obligation referred to in § 1 shall not arise, provided that the decision establishing the amount of the obligation was delivered after the lapse of five years from the end of the calendar year in which the tax obligation arose.

§ 3. The additional tax obligation provided for in the tax on goods and services shall not arise if the decision establishing the obligation was delivered after the lapse of five years from the end of the calendar year in which the tax obligation arose.

§ 4. The obligation due to the taxation of income unmatched by disclosed sources or derived from undisclosed sources shall not arise if the decision establishing the given obligation was delivered after the lapse of five years from the end of the year in which the deadline for submitting the annual personal income tax return elapsed, for the tax year given in the decision.

§ 5. The limitation period shall be suspended if issuing a decision depends on the preliminary question being resolved by another authority or a court. The suspension of the course of the limitation period shall last until the day on which the other authority's decision becomes final, or the court's decision becomes final and valid, but no longer than two years.

Art. 69. Loss of relief.

§ 1. If a taxpayer has not satisfied the conditions entitling him to benefit from the granted tax relief, the right to issue a decision establishing the tax obligation arises on day on which the event resulting in the loss of the right to relief occurred.

§ 2. The deadline for issuing the decision referred to in § 1 shall be three years from the end of the fiscal year in which the event resulting in the loss of the right to tax relief took place, and if the taxpayer did not inform the tax authority of the loss of the right to relief at least two months before the expiry of this deadline - the deadline to issue the decision referred to in § 1 shall be five years.

§ 3. The amount of the tax obligation shall be established according to the provisions of law effective on the day on which the tax obligation arose, and the facts existing on that day.

§ 4. If, according to separate provisions, the tax obligation is established for a calendar year or for another period, the decision referred to in § 1 shall be issued according to the provisions of law effective on the day on which the right to relief was acquired.

Art. 70. Limitation period of obligation.

§ 1. A tax obligation expires upon the lapse of five years from the end of the calendar year in which the tax payment deadline elapsed.

§ 2. The limitation period shall not begin to run, and if has begun it shall be suspended:

- 1) from the day of issuing the decisions referred to in Article 67a § 1 item 1 or 2, until the day of payment of the deferred tax or tax arrears, or the last tax instalment or last tax arrears instalment;
- 2) from the entry into force of a regulation on the prolongation of the tax payment deadline, issued by the minister responsible for public finances, until the lapse of the prolonged deadline.

§ 3. The course of the limitation period shall be interrupted by a declaration of bankruptcy. After the interruption to the course of the limitation period, it shall run anew from the day following the day on which the ruling on the completion of the bankruptcy proceedings becomes final and valid.

§ 4. The course of the limitation period shall be interrupted by the application of enforcement remedies of which the taxpayer was notified. After the interruption to the limitation period it shall run anew from the day following the day on which the execution measure was applied.

§ 5. *(repealed)*

§ 6. The limitation period of a tax obligation shall be suspended as of the date of:

- 1) initiating proceedings in matters of a revenue offence or a revenue petty offence, provided that the suspicion of the offence or petty offence is linked with the non-performance of the obligation;
- 2) lodging a claim to an administrative court against the decision concerning such an obligation;
- 3) filing a declaratory action to the common court to establish the existence or non-existence of a legal relationship or right;
- 4) delivering a ruling on accepting the security referred to in Article 33d § 2, or delivering an order to establish security pursuant to the administration enforcement proceeding provisions.

§ 7. The limitation period shall continue to run from the day following the day of:

- 1) the final and valid completion of proceedings in matters of revenue offences or revenue petty offences;
- 2) the delivery of a copy of an administrative court judgment to the tax authority, along with a statement of its validity;
- 3) a common court judgment declaring the existence or non-existence of a legal relationship or right becoming final and valid;
- 4) the expiry of a security decision;

5) the completion of the security proceedings pursuant to the provisions on administration enforcement proceedings.

§ 8. A tax obligation secured by a mortgage or a treasury lien shall not be subject to limitation; however, after the lapse of the limitation period, the obligations may be enforced only against the subject of the mortgage or lien.

Art. 70a. Suspension of the limitation period.

§ 1. The course of the limitation period referred to in Article 68 § 1 and 3 and in Article 70 § 1, shall be suspended if the possibility of establishing or determining the tax obligation results from double taxation treaties or other ratified treaties that the Republic of Poland is a party to, and establishing or determining the amount of such obligations by the tax authority depends on obtaining specified information from the authorities of another state.

§ 2. The limitation period referred to in § 1 shall be suspended from the day on which the tax authority submits an application to another state's authority until the day of receiving the requested information by the tax authority, though not longer than for three years.

§ 3. The limitation period referred to in § 1 may be suspended repeatedly; in such cases, the total limitation period may not exceed three years.

Art. 70b (repealed)

Art. 71. Application accordingly. The provisions of Article 70 apply accordingly to receivables due from tax remitters or tax collectors by virtue of uncollected or unpaid taxes.

Rozdział 9. Overpayment.

Art. 72. Overpayment.

§ 1. The following amounts shall be deemed as overpayment:

- 1) overpaid or unduly paid tax;
- 2) tax collected by a tax remitter unduly or in an amount higher than the amount due;
- 3) an obligation paid by a tax remitter or tax collector, if in the decision referred to in Article 30 § 4 it was determined unduly or in an amount higher than the amount due;
- 4) an obligation paid by a third party or heir if, in the decision on their tax liability or in the decision establishing the amount of deceased's tax obligation, it was determined unduly or in an amount higher than the amount due.

§ 2. If the payment was made towards tax arrears, the overpayment and the part of payment that was credited to default interest, are treated on equal terms.

Art. 73. Establishing an overpayment.

§ 1. An overpayment will arise, subject to § 2, as of the day when:

- 1) the taxpayer pays tax that is undue or is in a higher amount than due;
- 2) the tax remitter collects tax that is undue or is in the amount higher than the amount due;
- 3) the tax remitter or the tax collector pays the receivables resulting from a decision on his tax liability, if this receivable was determined unduly or in amount higher than the amount due;
- 4) the tax remitter or the tax collector pays tax that is undue or is in the amount higher than the amount of collected tax;
- 5) a third party or heir pays the receivable resulting from a decision on heir's tax liability, if this receivable was determined unduly or in the amount higher than the amount due;
- 6) *(repealed)*

§ 2. The overpayment arises as of the day of submitting:

- 1) the annual tax statement - for income taxpayers;
- 2) the excise tax return - for excise taxpayers;
- 3) a declaration on payments from profits for the financial year - for sole shareholder State Treasury companies and State enterprises;
- 4) the quarterly declaration for the tax on goods and services - for taxpayers of the tax on goods and services.

Art. 74. Establishing the date of an overpayment. If an overpayment arose as a result of the Constitutional Tribunal's judgment or the European Court of Justice's judgment, and a taxpayer whose tax obligation arises in a manner provided for in Article 21 § 1 item 1:

- 1) submitted one of the tax returns referred to in Article 73 § 2 or another tax return, from which the amount of tax obligation results - the amount of the overpayment shall be determined by the taxpayer in the application for its refund, who must submit at the same time an adjusted tax return;
- 2) have been settled by a tax remitter - the amount of the overpayment shall be determined by the taxpayer in the application for its refund, who must submit at the same time the tax statement (tax return) referred to in Article 73 § 2 item 1;
- 3) was not obliged to submit a tax return - the amount of the overpayment shall be determined by the taxpayer in the application for its refund.

Art. 74a. Determining the amount of an overpayment. In cases not listed in Article 73 § 2 and Article 74, the amount of the overpayment shall be determined by the tax authority.

Art. 75. Refunding an overpayment.

§ 1. If a taxpayer questions the correctness of the tax collection by a tax remitter, or the amount of the collected tax, the taxpayer may submit an application to establish a tax overpayment.

§ 2. The right referred to in § 1 also applies to:

- 1) taxpayers, whose tax obligation arises in a manner provided for in Article 21 § 1 item 1, if:
 - a) in the statements (tax returns) referred to in Article 73 § 2, they showed an undue tax obligation or an amount higher than the amount due and paid the declared tax, or showed an overpayment in an amount lower than the amount due,
 - b) in returns other than those referred to in Article 73 § 2 item 2 and 3, except for tax returns concerning income tax they showed an undue tax obligation or a tax obligation in an amount higher than the amount due and paid the declared tax;
 - c) paid tax undue or tax in a higher amount than due, while not being obliged to submit a tax return

- 2) tax remitters or tax collectors, if:
- a) in the submitted tax return they showed and paid tax in an amount higher than the amount of collected tax,
 - b) in the submitted tax return they stated and paid tax in the amount higher than the amount due¹,
 - c) they paid tax in the amount higher than the amount due, while not being obliged to submit declarations.

§ 3. In cases referred to in § 2 item 1 letters a and b and item 2 letters a and b, the taxpayer, tax remitter or tax collector shall be obliged to submit an adjusted statement (tax return) with the application to establish an overpayment.

¹ As of the day of 19 March 2009, Article 75 § 2 item 1 letter b and § 3, to the extent that it does not regulate the rules of submitting a correction of declaration and an application for the refund of overpayment of the tax on goods and services by the former partners of the dissolved civil partnership that was a taxpayer of the tax, was declared by Constitutional Tribunal's judgment of 10 March 2009 to be inconsistent with Article 2 read with Article 64 section 1 of the Constitution of the Republic of Poland.

§ 4. If the correctness of the adjusted tax statement (tax return) raises no doubts, the tax authority will refund the overpayment without issuing a decision establishing an overpayment.

§ 5. If the refund of overpayment pursuant to the procedure referred to in § 4, was made unduly or in an amount higher than the amount due, no default interest is charged. To such an extent, the proceedings in matters of revenue offences or revenue petty offences shall not be initiated.

§ 6. The provisions of § 2 item 1 letter b and item 2 shall not apply if the tax acts provide for another procedure of refunding the tax.

§ 7. The minister responsible for public finances will issue a regulation determining the local competence of tax authorities in the matters referred to in § 1, especially taking into account the type of tax and cases of tax collection by a tax remitter.

Art. 76. Accounting of overpayment.

§ 1. Overpayments with interest thereon shall be *ex officio* credited to tax arrears with default interest, default interest determined in the decision referred to in Article 53a and current tax obligations, and if there are none, they shall be refunded *ex officio*, unless a taxpayer submits an application to account for all or part of the overpayment towards future tax obligations, subject to § 2.

§ 2. Overpayments in an amount not exceeding the amount of the payment reminder in enforcement proceedings shall be accounted *ex officio* towards tax arrears with default interest, default interest determined in the decision referred to in Article 53a and current tax obligations, and if there are none, they shall be accounted towards future tax obligation, unless a taxpayer submits an application for them to be refunded.

§ 3. The provisions of § 1 and 2 apply accordingly to accounting for an overpayment of a tax remitter or tax collector for tax arrears, current tax obligations or obligations that arose by virtue of the tax remitter's or tax collector's obligations.

Art. 76a. Elaboration.

§ 1. In matters of accounting an overpayment for overdue or current tax obligations, a ruling shall be issued, which may be complained against. In the case of accounting an overpayment for tax arrears, the provisions of Article 55 § 2 and Article 62 § 1 shall apply accordingly.

§ 2. An overpayment shall be accounted for tax arrears as of the day when:

- 1) an overpayment arises - in the cases referred to in Article 73 § 1 items 1-3 and 5 and § 2;
- 2) an application to establish an overpayment is submitted.

Art. 76b. Return. The provisions of Article 76, Article 76 a, Article 77b and Article 80 shall apply accordingly to a tax refund. The accounting referred to in Article 76a § 2 item 1 shall be made as of the day when a tax return showing the tax refund is submitted.

Art. 76c. Refunding of an overpayment. An overpayment arising out of tax advances shall be refunded after the end of a period for which tax is settled. However, if the overpayment arises out of a decision determining the overpayment issued in connection with Article 75 § 1, the overpayment shall be refunded within 30 days from the day of issuing the decision.

Art. 77. Deadline for refunding of an overpayment.

§ 1. An overpayment shall be refunded within:

- 1) 30 days from the date of issuing the decision on the amendment, reversal or declaration of invalidity of the decision:
 - a) establishing the amount of the tax obligation,
 - b) determining the amount of the tax obligation,
 - c) on the tax liability of the tax remitter or the tax collector,
 - d) on the tax liability of third party or heir, subject to § 3;
- 2) 30 days from the day of issuing the decision establishing an overpayment or determining the amount of the overpayment;
- 3) 14 days from the day of delivering to the tax authority a copy of an administrative court judgment, with a statement on its validity, reversing the decision of the tax authority of the first instance or establishing its invalidity, subject to § 3;
- 4) 30 days from the day of submitting the application referred to in Article 74;
- 5) three months from the day of submitting the statement or tax return referred to in Article 73 § 2 items 1-3, subject to § 2;
- 6) within two months from the day of submitting the application to establish an overpayment with an adjusted statement (tax return) in the cases referred to in Article 75 § 3, though not earlier than within three months from the day of submitting the statement or tax return referred to in Article 73 § 2
- 7) 30 days from the day of submitting the tax return referred to in Article 73 § 2 item 4.

§ 2. In the case of adjusting the tax return:

- 1) in accordance with the procedure provided for in Article 274 § 1 item 1 - the overpayment shall be returned within three months from the lapse of the deadline for lodging an objection;
- 2) by the taxpayer - the overpayment shall be refunded within three months from the day of it being adjusted.

§ 3. If the decision referred to in § 1 item 1 letters a-d is reversed or declared invalid, and if within a subsequent three months from the day of the reversal or the declaration of its invalidity by the tax authority, or from the day of delivering to the tax authority a copy of an administrative court judgment, with a statement on its validity, reversing the decision or declaring its invalidity, a decision in the same matter is issued, the overpayment that constitutes the difference between the tax paid and the tax arising from this decision will be refunded within 30 days from the day of the new decision being issued.

§ 4. If no new decision is issued by the deadline referred to in § 3, the overpayment constituting the amount paid on the basis of decision reversed or ascertained as invalid will be refunded without unnecessary delay.

Art. 77a. Possibility of refunding an overpayment. The tax authority may, at the taxpayer's request, in cases justified by an important interest, refund an excess in the amounts of advances paid towards income tax.

Art. 77b. Refunding an overpayment.

§ 1. An overpayment shall be refunded:

1) into the bank account of a taxpayer, tax remitter or tax collector who is obliged to have a bank account;
2) in cash if the taxpayer, tax remitter or tax collector is not obliged to have a bank account, unless they demand that the overpayment be returned into a bank account.

§ 2. The day of refunding the overpayment is deemed to be the day of:

1) debiting the bank account of the tax authority on the basis of a payment order;
2) sending a postal order;
3) paying the amount of the overpayment by the tax authority, or leaving the overpayment at the disposal of the taxpayer's cash-desk.

§ 3. An overpayment whose amount does not exceed the costs of a payment reminder in enforcement proceedings, shall be returned only at the cash-desk.

§ 4. An overpayment refunded by a postal order shall be reduced by costs of its refund.

Art. 77c. Reducing an overpayment.

§ 1. An overpayment arising from the adjustment of a personal income tax return shall be reduced by the amount equivalent to the excess transferred to a public benefit organisation according to the taxpayer's application referred to in separate provisions, over the amount of one per cent of tax resulting from the tax return's adjustment, rounded down to two decimal points.

§ 2. The provision of § 1 shall apply accordingly to overpayments arising from the decision.

Art. 78. Interest rate on an overpayment.

§ 1. Overpayments bear interest at the rate equivalent to the default interest rate charged on tax arrears, subject to § 2.

§ 2. The overpayments referred to in Article 76 § 2 shall not bear interest.

§ 3. The right to interest shall arise:

1) in the cases referred to in Article 77 § 1 item 1 letters a)-d), subject to item 2 and in case referred to in Article 77 § 1 item 3 - from the day on which an overpayment arises;

2) in the cases referred to in Article 77 § 1 item 1 letters a)-d) - from the day on which the decision amending or reversing a decision is issued, if the tax authority has not given a reason for the amendment or reversal of the decision, and the overpayment was not refunded on time;

3) in the cases referred to in Article 77 § 1 items 2 and 6 - from the day of submitting the application to establish an overpayment with an adjusted tax statement (tax return):

a) if the overpayment was not returned within 30 days from the day of issuing the decision establishing the overpayment,

b) if the decision ascertaining the overpayment was not issued within two months from the day of submitting the application to establish an overpayment, unless the delay in the return of the overpayment was contributed to by the taxpayer, tax remitter or tax collector,

c) if the overpayment was not refunded by the deadline referred to in Article 77 § 1 item 6, unless the delay in return of the overpayment was contributed to by a taxpayer, tax remitter or tax collector;

4) in the case provided for in Article 77 § 1 item 5 and § 2 - from the day on which the overpayment arose, if the overpayment was not returned within three months from the day on which the statement or tax return referred to in Article 73 § 2 items 1-3 was submitted, or from the day of adjusting the statement or tax return in accordance with the procedure referred to in Article 274 or Article 274a;

5) in case referred to in Article 77 § 1 item 7 - from the day on which the overpayment arose, if it was not returned within 30 days from the day on which the declaration referred to in Article 73 § 2 item 4 was submitted, or from the day the declaration was adjusted in accordance with the procedure referred to in Article 274 or Article 274a.

§ 4. Interest shall be charged on an overpayment to the day on which the overpayment is returned, accounted towards due or current tax obligations, or the day on which the application to account the overpayment towards future tax obligations is submitted, subject to § 5 item 2.

§ 5. In the case referred to in Article 77 § 1 item 4, interest shall be charged for the period:

1) from the day on which the overpayment arose until the day it was refunded - provided that the taxpayer submitted an application for a refund of the overpayment within 30 days from the day on which the Constitutional Tribunal's judgment came into force, or on which the conclusion of the European Court of Justice' judgment is published in the Official Journal of the European Union, or from the day on which the normative act is fully or partially reversed or amended;

2) from the day on which the overpayment arose until the 30th day from the day on which the Constitutional Tribunal judgment's comes into force, or the European Court of Justice's judgment is published in the Official Journal of the European Union, or from the day on which the normative act is fully or partially reversed or amended - if the application for the return of an overpayment was submitted within 30 days from the day on which the Constitutional Tribunal's judgment comes into force, or the European Court of Justice's judgment is published in the Official Journal of the European Union, or from the day on which such act was fully or partially reversed or amended.

Art. 78a. Overpayment settlement. If the amount of the refunded tax does not cover the amount of an overpayment with interest on it, the refunded amount will be accounted towards the amount of the overpayment and the amount of interest on it at such a ratio as the amount of the overpayment is to the amount of interest as

on the day of return.

Art. 79. Establishing an the overpayment.

§ 1. Proceedings in matters of stating an overpayment may not be initiated during on-going tax proceedings or tax inspection proceedings, or in the period between the completion of the inspection and the initiation of proceedings - within the scope of the tax obligation that the tax proceedings or tax inspection concern.

§ 2. The right to submit an application to establish an overpayment shall expire after the lapse of the tax obligation's limitation period.

§ 3. The provision of § 2 does not apply if tax acts provide for other procedure for the refund of tax.

Art. 80. Right to refund an overpayment.

§ 1. The right to refund a tax overpayment shall expire after the lapse of five years from the end of the calendar year in which the deadline for its refund elapsed.

§ 2. After the lapse of the deadline referred to in § 1, the right to submit an application to account an overpayment towards future tax obligations and the possibility of accounting an overpayment towards outstanding and current tax obligations shall also expire.

§ 3. Submitting an application to establish an overpayment, to refund an overpayment or to account it towards future tax obligations shall interrupt the course of the deadline for the refund of an overpayment.

Rozdział 9a. Signing a Tax Return.

Art. 80a. Power of attorney to sign.

§ 1. Unless separate acts provide otherwise, a tax return, including a tax return submitted by electronic means of communication, may also be signed by the taxpayer's attorney, tax remitter or tax collector.

§ 2. The power of attorney to sign a tax return and a notice of revocation of the power of attorney shall be submitted to the tax authority competent in the matters of tax that the return relates to.

§ 2a. The power of attorney to sign a tax return submitted by electronic mean of communication and a notice of revocation of the power of attorney shall be submitted by a taxpayer, tax remitter or tax collector to the head of the tax office competent in the matters of records of taxpayers and tax remitters.

§ 3. If the provisions of tax law require the tax return to be signed by more than one person, the power of attorney to sign the tax return is effective if granted by all these people.

§ 4. In matters of the power of attorney to sign a tax return, the provisions on a power of attorney in tax proceedings shall apply accordingly.

§ 5. The minister responsible for public finances will, in a regulation, determine a template for the power of attorney to sign a tax return submitted by means of electronic communication and a template for a notice of revocation of the power of attorney, taking into account the scope of the power of attorney and the identification data of the taxpayer, tax remitter or tax collector and of the representative.

Art. 80b. Waiver from obligation. Unless separate acts provide otherwise, signing a tax return by an attorney shall release the taxpayer, tax remitter or tax collector from the duty to sign the return.

Rozdział 10. Tax Return Adjustment.

Art. 81. Tax return adjustment.

§ 1. Unless separate provisions provide otherwise, taxpayers, tax remitters and tax collectors may adjust a previously submitted tax return².

§ 2. A tax return shall be adjusted by submitting an adjustment tax return with written grounds for the adjustment.

Art. 81a (repealed)

Art. 81b. Possibility to adjust a tax return.

§ 1. The right to adjust the return:

1) shall be suspended for the period of tax proceedings or a tax inspection - within the scope of the proceedings or the inspection;

2) can still be exercised after the completion of:

a) a tax inspection,

b) tax proceedings - in the scope not covered by the decision determining the amount of tax obligation.

§ 2. An adjustment submitted in the case referred to in § 1 item 1, shall have no legal effect.

§ 3. (repealed)

Art. 81c (repealed)

Rozdział 11. Tax Information.

Art. 82. Objective and subjective scope of the obligation to inform.

§ 1. Legal persons, organisational entities without legal personality, and individuals pursuing economic activity are obliged to prepare and supply information:

1) at the written request of a tax authority - on events resulting from the civil or labour law relationships that may lead to a tax obligation or affect the amount of a tax obligation of persons or entities with whom the contract was concluded;

2) without summons by a tax authority - on contracts concluded with non-residents within the meaning of foreign exchange provisions;

3) in the scope and on terms and conditions determined in separate acts.

§ 2. The banks and co-operative savings and credit unions are obliged to prepare and supply the minister responsible for public finances, in the form of an electronic document, with monthly information on opened and liquidated bank accounts related to pursuing economic activity, by the seventh day of the following month.

§ 2a. Organisational units of the Social Insurance Institution, at the written request of the head of a tax office or the head of a customs office, shall be obliged to prepare and supply information on the contributions of the tax remitter and the insured person.

§ 2b. (*repealed*)

§ 2c. The information referred to in § 2 shall be made available by the minister responsible for public finances to heads of tax offices, the heads of customs offices, directors of tax chambers, directors of customs chambers and directors of tax inspection offices.

§ 3. Banks, co-operative savings and credit unions and other financial institutions, at the written request of the minister responsible for public finances or an authorised representative, shall provide information on requests filed by foreign authorities - within the scope and on terms referred to in Chapter 2 of Section VIIa and resulting from the ratified double taxation agreements and other ratified international agreements the Republic of Poland is a party thereto.

§ 4. The request referred to in § 3 shall be classified as „tax secrecy” and it shall be supplied in accordance with the procedure provided for the documents containing classified information constituting an official secret, within the meaning of the provisions of law on protection of classified information.

§ 5. The tax authority shall determine the scope and the deadline for supplying the information referred to in § 1 item 1 and § 2a.

§ 6. The minister responsible for public finances shall issue a regulation determining:

1) cases and the scope of information referred to in § 1 item 2, and the detailed rules, deadlines and a procedure of their preparation and supply, taking into account, in particular, capital and supervisory relationships between residents and non-residents within the meaning of the provisions of foreign exchange law, as well as non-residents possessing enterprises, branches and agencies in the Republic of Poland;

2) the government or local government administration authorities obliged to supply tax information without being summoned by the tax authority, the scope of the information, as well the manner of preparing it and deadline for supplying it.

§ 7. The minister responsible for public finances, taking into account the improvement in supplying and processing the information referred to in § 2, will issue a regulation determining:

1) the format and procedure for transferring an electronic document, taking into account its protection against an unauthorised access;

2) the template for information on opened and liquidated bank accounts and accounts in the co-operative savings and credit unions referred to in § 2, taking into account the account number, the day on which it was opened or liquidated, the data identifying the account holder, including the surname and first name or the business name of the holder, place of residence or business address, type and number of the identifier of the account holder, code of the state of the account holder, and tax identification number.

§ 8. The duty referred to in § 2 may be performed by the institutions referred to in Article 105 item 4 of the Banking Law of 29 August 1997.

Art. 82a. Information on wages.

§ 1. Legal persons, organisational entities without legal personality, and individuals pursuing economic activity shall be obliged to collect, prepare and transfer, without being summoned by the tax authority, information on wages for services provided to them (performed work), paid by a non-resident to individuals being a non-resident within the meaning of foreign exchange law, the providers of such services (entities performing work), if:

1) in connection with the double taxation agreements and other ratified international treaties the Republic of Poland is a party to, this may lead to a tax obligation or affect the amount of the tax obligation of persons receiving remuneration;

2) a non-resident entity directly or indirectly participates in the management or controls the entity of which the information duty concerns, or holds a share in that subject's capital, which gives a right to at least five per cent of the total voting rights.

§ 2. The minister responsible for public finances will issue a regulation determining the scope of the information referred to in § 1, as well as detailed rules, deadlines and a procedure for preparing it, taking into account, in particular the length of a non-resident's stay in the country, data identifying it, and entity paying a remuneration to the non-resident, the amount of remuneration, form and deadline of its payment.

Art. 83. Delegation of authorisation. The minister responsible for public finances, in conjunction with the minister responsible for defence, the minister responsible for internal affairs and the minister responsible for public administration, will issue a regulation determining the scope and the deadline for the authorities or entities subordinate to the ministers to supply the information referred to in Article 82 § 1, taking into account the data identifying the parties of a concluded agreement and the procedure of supplying the information providing special protection to the information contained therein.

Art. 84. Courts, court bailiffs, public notaries.

§ 1. Courts, court bailiffs and public notaries shall prepare and supply the competent tax authorities with information arising from legal events that may lead to a tax obligation.

§ 2. The minister responsible for justice, in conjunction with the minister responsible for public finances, will issue a regulation determining the type and form of information, taking into account the form of excerpts of the act, scope, deadlines and the manner of courts, court bailiffs and public notaries supplying information.

Art. 85. Delegation of authorisation. The minister responsible for public finances may, in a regulation, determine the groups of entities obliged to submit tax statements, lists and information or tax returns and determine the scope of the data contained in these documents, as well as deadlines for their submission and the types of documents that should be enclosed to them, to the extent necessary to control the correct performance of the tax duties and the exercise of the rights provided for in the tax law provisions.

Art. 86. Delegation of authorisation.

§ 1. Taxpayers obliged to keep tax books shall preserve these books and documents related with keeping the books until the expiry of the limitation period of the tax obligation.

§ 2. In the event of the liquidation or dissolution of a legal person or an organisational entity without legal personality, the entity conducting the liquidation or dissolution must notify the competent tax authority, in writing, no later than on the last day of the existence of the legal person or the organisational unit, about a location of storing the tax books and documents relating to keeping the books.

Rozdział 12. Bills.

Art. 87. Obligation to make up the bill.

§ 1. Unless separate provisions provide otherwise, taxpayers pursuing economic activity are obliged, at the request of a purchaser or a customer, to make out a bill confirming a sale or a service provided.

§ 2. The duty to make out the bill referred to in § 1 shall not apply to farmers selling agricultural and animal products from their own crops or farming, not processed in an industrial way, unless the sale is made in their separate, permanent places of sale, outside the area of cultivation or farming.

§ 3. The taxpayers referred to in § 1 from whom a bill was requested before providing the service or releasing goods, shall make out a bill no later than seven days after the day of providing the service or releasing the goods. However, if the request for a bill was submitted after the service was provided or the goods were released, the bill shall be made out within seven days from the day of submitting the request.

§ 4. The taxpayer shall not be obliged to make out a bill if the request was submitted more than three months after the goods were released or the service was provided.

§ 5. The minister responsible for public finances will issue a regulation determining the scope of the information that must be included in the bills, taking into account in particular the data identifying the seller and the purchaser, the provider and the receiver of the services and the specification of the value and type of transaction.

Art. 88. Copies of bills.

§ 1. Taxpayers making out bills are obliged to number them subsequently and keep copies of these bills, in order of making them out, until the lapse of the tax obligation's limitation period.

§ 2. The provisions of § 1 apply accordingly to taxpayers who are obliged to request the bills.

Art. 89 (repealed)

Art. 90 (repealed)

Rozdział 13. Joint and Several Liability.

Art. 91. Reference to Civil Code. The provisions of the Civil Code on civil law obligations shall apply to joint and several tax liability.

Art. 92. Entities jointly and severally liable.

§ 1. If, in accordance with the tax acts, taxpayers are jointly and severally liable for tax obligations arising in the manner referred to in Article 21 § 1 item 2, the taxpayers, to whom the decision establishing the amount of tax obligation has been delivered, shall be jointly and severally liable.

§ 2. The provisions of § 1 shall not apply to tax obligations collected in the form of a joint pecuniary obligation. In this case, the principles of joint and several liability shall apply on the day of delivering the decision (payment order) to a person to which, in accordance with separate provisions, a decision (payment order) is issued.

§ 3. Spouses who are jointly taxable on the basis of separate provisions are jointly and severally liable for tax obligations and their claim for a refund of a tax overpayment shall be joint and several.

§ 4. The provisions of the Civil Code relating to civil law claims shall apply to claims for a refund of tax overpayment referred to in § 3.

Rozdział 14. Rights and Obligations of Legal Successors and Transformed Entities.

Art. 93. Legal person created as a result of merger.

§ 1. A legal person formed (created) as a result of merger of:

- 1) legal persons,
- 2) commercial partnerships,
- 3) commercial partnerships and companies

- shall enter into all rights and duties provided for in the provisions of tax law of each of the merging persons, companies or partnerships.

§ 2. The provision of § 1 shall apply accordingly to a legal person merged by the acquisition of:

- 1) another legal person (legal persons);
- 2) a commercial partnership (commercial partnerships).

§ 3. (repealed)

Art. 93a. Other legal persons.

§ 1. A legal person formed (created) as a result of:

- 1) the transformation of another legal person,
- 2) the transformation of a partnership with no legal personality,

- shall enter into all rights and duties provided for in the provisions of tax law of each of the transformed persons or partnerships or companies.

§ 2. The provision of § 1 shall apply accordingly to:

- 1) a commercial partnership formed (created) as a result of transformation of:
 - a) another partnership with no legal personality,
 - b) a company;

2) a partnership with no legal personality to which an individual makes a contribution of his enterprise thereto to cover his or her share.

Art. 93b. Communal budget institutions. The provisions of Article 93 and Article 93a shall apply accordingly to mergers and transformations of communal budget institutions.

Art. 93c. Entry into rights and obligations.

§ 1. Legal persons acquired or created as a result of a division shall enter, as of the division or separation date into all the rights and duties of the divided legal person, as provided for in tax law provisions, related to the assets allocated to them in the division plan.

§ 2. The provision of § 1 shall apply if the assets acquired as a result of the division, and in the case of a division through separation - also the assets of the legal person being divided, constitute an organised part of an enterprise.

Art. 93d. Elaboration. The provisions of Articles 93-93c shall also apply to the rights and duties resulting from decisions issued on the basis of tax law provisions.

Art. 93e. Scope of application. The provisions of Articles 93-93d shall also apply to the extent that separate acts, double taxation agreements and other ratified treaties to which the Republic of Poland is a party to, do not provide otherwise.

Art. 94. Generalisation. The provisions of Article 93 § 1, Article 93d and Article 93e, subject to Article 95, shall also apply to the purchasers of state enterprises and companies or partnerships that purchased or acquired them pursuant to the Act on Commercialisation and Privatisation of State Enterprises.

Art. 95. Liability of purchasers.

§ 1. The liability of purchasers and companies or partnerships referred to in Article 94, by virtue of:

- 1) default interest on the tax arrears of liquidated enterprise,
 - 2) interest on goods and services tax advances to be refunded,
- shall be limited to interest charged to the day on which the enterprise is struck off the register of state enterprises.

§ 2. The provision of § 1 shall apply accordingly to the liability of the State Treasury or the district, county or voivodeship for interest on an overpayment, or interest on refunds of the difference in the tax on goods and services.

Art. 96. Default interest. Default interest and the interest rate referred to in Article 95 shall still be charged:

- 1) after the lapse of 14 days from the day on which the company or partnership received a decision determining the amount of the tax obligation, or on which the decision on refunding the input goods and services tax advances was issued;
- 2) starting from the day on which the tax authority received an application for a refund of an overpayment or a difference in the tax on goods and services.

Art. 97. Heirs.

§ 1. The taxpayer's heirs, subject to § 2, shall take over all property rights and duties of the deceased provided for in the tax law provisions.

§ 2. If, according to tax law provisions, the deceased was entitled to non-property rights connected with economic activity, those rights will be taken over by the heirs on the condition that they still pursue such economic activity in their own name.

§ 3. The provision of § 2 shall apply accordingly to rights and duties by virtue of the functions of a tax remitter performed by the deceased.

§ 4. The provisions of § 1-3 shall also apply to rights and duties resulting from decisions issued on the basis of the provisions of tax law.

Art. 97a (repealed)

Art. 98. Liability of heirs.

§ 1. The provisions of the Civil Code on accepting or renouncing an inheritance and liability for inherited debts apply to the heirs' liability for the deceased's tax obligations.

§ 2. The provision of § 1 shall also apply to heirs' liability for:

- 1) tax arrears, including arrears referred to in Article 52 § 1;
- 2) the deceased's default interest;
- 3) collected and unpaid taxes by virtue of the function of remitter or tax collector performed by the deceased;
- 4) goods and services input tax advances not refunded by the deceased, and interest thereon;
- 5) the prolongation fee;
- 6) the costs of tax proceedings;
- 7) notification costs and the costs of enforcement proceedings against deceased that arose before the inheritance opening date.

§ 3. (repealed)

Art. 99. Suspension of the limitation period. The course of the limitation periods referred to in Articles 68, 70, 71, 77 § 1 and Article 80 § 1 shall be suspended from the date of the deceased's death to the date on which the court's ruling on acquisition of the inheritance becomes valid, but not longer than two years from the deceased's death.

Art. 100. Scope of liability of the heirs.

§ 1. The tax authorities competent for the testator's last place of residence shall decide in separate decisions on the scope of liability of the particular heirs, or determine the amount of a tax overpayment or tax refund.

§ 2. The tax authority shall issue a decision determining the amount of known obligations referred to in Article 98 § 1 and 2, subject to § 2a on the day of opening the testator's inheritance.

§ 2a. While issuing the decision, the tax authority shall determine the correct amount of the tax obligation, the amount of any loss incurred that entitles heirs to benefit from tax relief, according to tax law provisions, the amount of any overpayment or tax refund, if the amount is different from that indicated in the tax return submitted by the deceased, or if the deceased did not submit a tax return.

§ 3. The deadline for the heir to pay the obligations referred to in § 2 shall be 14 days from the date of delivering the decision.

Art. 101. Default interest on the testator's tax arrears.

§ 1. Default interest on the deceased's tax arrears and interest on not refunded input tax on goods and services advances shall be charged until the day of opening the inheritance.

§ 2. Default interest and interest referred to in § 1 shall be still charged if the heirs do not meet the deadline referred to in Article 100 § 3.

§ 3. *(repealed)*

Art. 102. Precision.

§ 1. The provisions of Article 100 and 101 shall apply if:

- 1) the tax proceedings regarding a testator were not initiated or
- 2) the tax proceedings to which the deceased was a party were completed with a final decision.

§ 2. If the party dies during the proceedings in matters concerning rights or duties referred to in Article 97, the heirs enter into the place of the previous party.

§ 3. The provision of § 2 shall apply accordingly to the legal successors referred to in Articles 93-93c and Article 94.

Art. 103. Notification of heirs.

§ 1. The tax authorities shall notify the heirs of:

- 1) appeals against a decision, complaints against rulings and claims to the administrative court lodged by the deceased;
- 2) decisions issued on the basis of the Article 67a § 1 item 1 or 2, if the deadline for the payment of deferred tax, tax arrears or tax instalments has not lapsed;
- 3) decisions and rulings that were delivered to the deceased, where the deadline for lodging an appeal, complaint or a claims to the administrative court had not lapsed on the day of his death;
- 4) an initiated tax inspection;
- 5) applications submitted by the deceased to initiate proceedings;
- 6) proceedings initiated *ex officio* against the deceased.

§ 2. In cases referred to in § 1 item 1 and 3, the deadlines for lodging an appeal, complaint or claim to the administrative court shall run anew from the day the notification is delivered.

Art. 104. Informing the heirs.

§ 1. If the deceased was a personal income taxpayer, the tax authority will inform the heirs, on the basis of available data, of the amount of the deceased's income or revenue, and of the amount of paid tax advances or tax, and at the same time it will inform the heirs of the amount of tax to be paid, or any tax overpayment.

§ 2. If the deceased incurred expenses entitling him or her to tax relief, the heirs will inform the tax authority of the amount of incurred expenses within 30 days from the day of receiving the information referred to in § 1.

§ 3. After the lapse of the deadline referred to in § 2, the tax authority shall deliver to the heirs the decision establishing the amount of the tax obligation or establishing an overpayment.

§ 4. *(repealed)*

Art. 105. Overpayment and its interest rate.

§ 1. Interest on an overpayment or tax refund for the benefit of the deceased shall be charged until the day of opening the inheritance.

§ 2. Overpayments and tax refunds for the benefit of the deceased, and interest thereon, shall be refunded to each heir in proportion indicated in their unanimous statement of intent, on condition that the following have been submitted to the tax authority:

- 1) a final and valid court judgment confirming the acquisition of inheritance;
- 2) a unanimous statement of intent of all the heirs on the division of such receivables.

§ 3. If the statement of intent referred to in § 2 item 2 is not submitted within 30 days from the day on which the final and valid court ruling establishing the inheritance acquisition is submitted, the amounts of due overpayments and tax refunds, as well as the interest charged thereon, will be placed on the tax authority's deposit. An overpayment or tax refund shall be reduced by the costs of the deposit.

§ 4. Interest shall still be charged if the overpayment or tax is not refunded within 15 days from the day of submitting the statement referred to in § 2 item 2.

Art. 106. Devisee liability.

§ 1. The legatee who received a due legacy shall be liable for the deceased's tax obligations.

§ 2. The scope of the legatee's liability shall be limited to the amount of the legacy received.

§ 3. Article 97 § 1 and Articles 98-104 shall apply accordingly to the legatee's liability.

Rozdział 15. Tax Liability of Third Parties.

Art. 107. Third parties liability.

§ 1. In cases and to the extent provided for in this chapter, third parties shall also be liable with all their assets for the taxpayer's tax arrears jointly and severally with the taxpayer.

§ 1a. The third parties shall be liable with all their assets jointly and severally with the taxpayer's legal successor for the tax arrears taken over by a legal successor.

§ 2. Unless further provisions provide otherwise, third parties shall also be liable for:

- 1) uncollected taxes and taxes collected but not paid by tax remitters or tax collectors;
- 2) default interest on tax arrears;
- 3) goods and services input tax advances not refunded by the deadline, with interest thereon;
- 4) the costs of enforcement proceedings.

Art. 108. Decision on liability.

§ 1. The tax authority shall issue a decision deciding on the tax liability of a third party.

§ 2. Proceedings in the matters of the tax liability of a third party may not be initiated before:

- 1) the lapse of the deadline for the payment of the established obligation;
- 2) the day of delivering a decision:
 - a) determining the amount of the tax obligation,
 - b) on the tax liability of the tax remitter or the tax collector,
 - c) on the refund of goods and services input tax advance;
 - d) determining the amount of default interest;
- 3) the day of initiating enforcement proceedings - in the case referred to in § 3.

§ 3. In the case of issuing an enforcement title on the basis of a tax return, according to the rules provided for in the provisions on administration enforcement proceedings, a prior decision determining the amount of a tax obligation and the decision referred to in Article 53a shall not be required before deciding on a third party's liability.

§ 4. The enforcement of an obligation arising from a decision on the tax liability of a third party may only be initiated when the enforcement against the taxpayer's assets has proved to be fully or partially ineffective.

Art. 109. Reference.

§ 1. In matters of the tax liability of a third party, the provisions of Article 29, Article 47 § 1, Article 51 § 1, Article 53 § 3, Article 55, Article 57, Article 59, Article 60 and Articles 64-66 shall apply accordingly.

§ 2. If payment deadline is not met, a third party shall also be liable for the default interest charged after issuing the decision on this party's tax liability, on:

- 1) tax arrears;
- 2) the receivables specified in Article 107 § 2 item 1;
- 3) goods and services input tax advances not refunded on time.

Art. 110. Liability of a divorced spouse.

§ 1. The divorced spouse of a taxpayer shall be liable with all his or her assets, jointly and severally with a former spouse for tax arrears by virtue of tax obligations that arose during the joint marital property, though only to the value of his or her share in the joint property.

§ 2. The liability referred to in § 1, shall not include:

- 1) uncollected receivables referred to in Article 107 § 2 item 1;
- 2) the default interest and costs of the enforcement proceedings that arose after the divorce judgment became final and valid.

§ 3. The provisions of § 1 and 2 shall apply accordingly to the annulment of a marriage and a separation.

Art. 111. Liability of family members.

§ 1. Members of a taxpayer's family shall be liable with all their assets jointly and severally with the taxpayer pursuing economic activity for tax arrears resulting from such activity and arising in period in which they constantly co-operated with the taxpayer, obtaining benefits from the activity pursued.

§ 2. The liability referred to in § 1, shall not apply to persons towards whom, during the constant co-operation with the taxpayer, the taxpayer was under a maintenance obligation - to the extent resulting from the maintenance obligation.

§ 3. Members of the taxpayer's family include descendants, ascendant, siblings, descendants' spouses, a person remaining in an adoptive relationship, and a person co-habiting with the taxpayer.

§ 4. The provision of § 1 shall also apply to spouses who have entered into an agreement on the limitation or exclusion of joint marital property, whose joint property was cancelled by the court, and to separated spouses.

§ 5. The liability referred to in § 1:

- 1) shall be limited to the amount of benefits obtained;
- 2) shall not include uncollected dues referred to in Article 107 § 2 item 1, except for receivables that were collected from the persons referred to in § 3 and 4.

Art. 112. Acquirer of an enterprise.

§ 1. The acquirer of an enterprise or an organised part of the enterprise shall be jointly and severally liable with the taxpayer, with all his or her assets, for tax arrears connected with the pursued economic activity that arose before the day of purchase, unless, despite exercising due diligence, he or she could not have known about these arrears.

§ 2. *(repealed)*

§ 3. The scope of the acquirer's liability shall be limited to the value of the acquired enterprise or its organised part.

§ 4. The scope of the acquirer's liability shall not include:

- 1) the receivables referred to in Article 107 § 2 item 1;
- 2) default interest on tax arrears and the interest referred to in Article 107 § 2 item 3, which arose after the day of acquisition.

§ 5. The provision of § 4 shall not apply to acquirers who are spouses or members of the taxpayer's family referred to in Article 111 § 3.

§ 6. The acquirer shall not be liable for tax arrears not indicated in the certificate referred to in Article 306g.

§ 7. The acquirer shall also be liable for tax arrears and other receivables of the transferor referred to in Article 107 § 2 items 2-4, subject to § 4 item 2, if they arose after the day of issuing the certificate referred to in Article 306g, but before the acquisition of the enterprise or its organised part, if more than 30 days passed from the day of issuing the certificate until the day of the disposal.

Art. 112a. Exclusion of application of provisions. The provision of Article 112 shall not apply to an acquisition through enforcement and bankruptcy proceedings.

Art. 113. Disguising of activity. If the taxpayer, with the consent of another person, for the purpose of concealing economic activity or the scale of such activity, uses or used a name and surname, a business name or the economic name of this person, then that person shall be liable with all his or her assets, jointly and severally with the taxpayer, for tax arrears that arose while pursuing such activity.

Art. 114. Freeholder liability.

§ 1. The owner, autonomous possessor or perpetual usufructuary of an object or properly right, remaining with the user of the given object or properly right in a relationship referred to in § 2, shall be liable for the user's tax arrears that arose by virtue of the economic activity pursued by the user, if the given right or object are related to the economic activity or used for pursuing it.

§ 2. The relationship referred to in § 1, takes place when, during the use between:

- 1) the owner, autonomous possessor or perpetual usufructuary of an object or property right and their user, or
- 2) persons performing managerial, supervisory or control functions in the entity being an owner, autonomous possessor or perpetual usufructuary of the object or property right, and persons performing such functions in the entity being the user thereof

- there are connections of family, capital or property within the meaning of the provisions on income tax or arising from an employment relationship.

§ 3. The liability referred to in § 1 shall be limited to the amount equal to the value of the objects or property rights being used.

§ 4. The provisions of § 1-3 shall apply accordingly to letting, lease or leasing, or other contracts of a similar nature.

Art. 114a. User liability.

§ 1. A tenant or a real property usufructuary shall be liable with all their assets jointly and severally with the taxpayer being an owner, perpetual usufructuary or autonomous possessor of real property by virtue of tax arrears arising from the taxation of real property that arose during the lease or usufruct.

§ 1a. The provision of § 1 shall apply if, between the tenant or usufructuary and the taxpayer there are connections of family, capital or property in the meaning of the provisions on income tax, or resulting from an employment relationship.

§ 2. The scope of liability of the tenant or a real property usufructuary shall not include the receivables referred to in Article 107 § 2.

Art. 115. Liability of partnerships.

§ 1. A partner in a civil law, registered and professional partnership, and a general partner of a limited partnership or limited joint-stock partnership shall be liable with all his or her assets jointly and severally with the partnership and other partners for the partnership's tax arrears.

§ 2. The provision of § 1 shall also apply to the liability of a former partner for tax arrears by virtue of tax obligations for which the payment deadline elapsed within the period when he or she was a partner, and the arrears referred to in Article 52 which arose within the period when he or she was a partner. For tax obligations arising on the basis of separate provisions, after the dissolution of the partnership, the partners at the moment of the partnership's dissolution shall be liable.

§ 3. *(repealed)*

§ 4. A judgment on liability, as referred to in § 1, for the company's tax arrears by virtue of the tax obligations that arose in the manner referred to in Article 21 § 1 item 1 shall not require a prior issue of the decision referred to in Article 108 § 2 item 2. In such a case, the determination of the amount of the partnership's tax obligations, a decision on the liability of a tax remitter (tax collector), on the refund of advances on the goods and services input tax, or a determination of the amount of default interest shall be made in the decision referred to in Article 108 § 1.

§ 5. The provision of § 4 shall also apply to the dissolution of a partnership.

Art. 116. Liability of a legal person.

§ 1. For the tax arrears of a limited liability company, a limited liability company in organisation, a joint stock company or a joint stock company in organisation, the members of the management board shall be liable jointly and severally with all their assets, if the execution against the company's assets proved to be fully or partially ineffective, and a member of the management board:

1) has not demonstrated that:

- a) a petition for bankruptcy was filed, or proceedings preventing the declaration of bankruptcy (composition proceedings) were commenced at the appropriate time or
- b) he or she is not responsible for a petition for bankruptcy not being filed, or the proceedings preventing the bankruptcy (composition proceedings) not being commenced;

2) does not disclose company's assets, the execution against which would enable the satisfaction of the company's tax arrears to a significant extent.

§ 2. The liability of members of the management board shall include tax arrears by virtue of the obligations for which the payment deadline elapsed within the period in which they performed their duties as members of the management board, and the arrears listed in Article 52 that arose within the period in which they performed their duties as members of the management board.

§ 3. If a limited liability company in organisation or a joint stock company in organisation has no management board, its attorney shall be liable for the company's tax arrears, or its shareholders if no attorney was appointed. The provisions of § 1 and 2 shall apply accordingly.

§ 4. The provisions of § 1-3 shall also apply to a former member of the management board and a former attorney or the shareholder of a company in organisation.

Art. 116a. Liability of other legal persons. For tax arrears of legal persons other than those referred to in Article 116, the members of the governing bodies of such persons shall be liable jointly and severally with all their assets. The provisions of Article 116 shall apply accordingly.

Art. 117. Separation of a legal person; scope of liability.

§ 1. Legal persons acquired or created as a result of a separation (newly established entities) shall be liable jointly and severally with all their assets for the tax arrears of a divided legal person, if the property acquired as a result of the division, and, in the case of a division by separation, also the property of a divided legal person, shall not constitute an organised part of an enterprise.

§ 2. The scope of liability of acquired legal persons or newly created legal persons shall be limited to the value of net assets acquired, resulting from the division plan.

§ 3. The scope of liability of acquired legal persons or newly created legal persons in case of the division by a separation, shall be limited to the arrears by virtue of the tax obligations which arose before the day of separation.

§ 4. The provision of Article 115 § 4 shall apply accordingly to decisions on tax liability for the tax arrears of a legal person struck off the register as a result of its division.

Art. 117a. Liability of a guarantor and surety.

§ 1. A guarantor or a surety whose security was accepted by the tax authority, shall be liable with a taxpayer, tax remitter, tax collector, their legal successor or a third party, jointly and severally with all its assets for tax obligations arising from the decision that is the object of security, with default interest and enforcement costs arising in connection with the enforcement of that decision - up to the amount of the guarantee or suretyship, and

within the time limit indicated in it.

§ 2. The provision of § 1 shall apply to a guarantor or the surety whose security was accepted by the tax authority in connection with a refund of the tax on goods and services.

Art. 118. Limitation of liability.

§ 1. The decision on a third party's tax liability may not be issued if five years have passed from the end of the calendar year in which the tax arrears arose.

§ 2. The limitation of an obligation resulting from the decisions referred to in § 1, shall take place after the lapse of three years from the end of the calendar year in which the decision on the tax liability of a third party was delivered. The provisions of Article 70 § 2 item 1, § 3 and 4 shall apply accordingly, with the proviso that the period of limitation after its interruption shall be three years.

Art. 119. Valorisation.

§ 1. The amount referred to in Article 41 § 1 shall be increased each year at the ratio corresponding to the growth of the consumer price index in the first two quarters of the given year compared to the similar period of previous year, and if the value of the index is negative the amount shall not change.

§ 2. The minister responsible for public finances, in conjunction with the chairman of the Central Statistical Office, shall make an announcement in the Journal of Laws of the Republic of Poland „*Monitor Polski*” by 15 August of the given year, the amount referred to in Article 41 § 1, rounding it off to the full hundreds of PLN, omitting decimals of PLN.

Dział IV. Tax Proceedings.

Rozdział 1. General Rules.

Art. 120. General principle. The tax authorities shall act on the basis of the provisions of law.

Art. 121. Principles of conduct.

§ 1. Tax proceedings shall be conducted in a manner that builds confidence in the tax authorities.

§ 2. The tax authorities are obliged to give necessary information and explanations of the provisions of tax law related to the subject of the proceedings.

Art. 122. Principle of conduct. In the course of the proceedings, the tax authorities shall undertake all activities necessary to thoroughly explain the facts of the case and to resolve the case in tax proceedings.

Art. 123. Principle of participation of the parties.

§ 1. The tax authorities are obliged to ensure the parties actively participate at every stage of the proceedings and, before issuing the decision, allow them to express their opinion about the evidence and materials collected and requests made.

§ 2. The tax authority is empowered to withdraw the rule referred to in § 1 if, as a result of proceedings initiated at the application of the party, the decision being issued complies with the party's application in full, and in cases referred to in Article 200 § 2 item 2.

Art. 124. Grounds of prerequisites. The tax authorities shall explain to the parties the merits of the prerequisites taken into account while resolving the case, in order to, as far as possible, bring the decision to be implemented without coercive measures.

Art. 125. Quick action.

§ 1. The tax authorities shall act thoroughly and fast, using the simplest available measures to resolve the case.

§ 2. Cases that do not require evidence, information or explanations to be collected shall be settled immediately.

Art. 126. Written form. Tax cases shall be settled in writing, unless specific provisions provide otherwise.

Art. 127. Two-instance proceedings. Tax proceedings shall be two-instance proceedings.

Art. 128. Final decision. Decisions that cannot be appealed against in tax proceedings shall be final. Their reversal or amendment, invalidation and the resumption of proceedings shall be permitted only in matters indicated in tax acts.

Art. 129. Openness. Tax proceedings shall only be open to the parties.

Rozdział 2. Exclusion of the Employee of the Tax Authority and the Tax Authority.

Art. 130. Exclusion of an employee.

§ 1. An employee of a tax office, a district (city) office, a county office, a marshal's office, a tax - chamber, a customs officer or the employee of the customs office, a customs chamber, an office supporting the minister responsible for public finances and a member of the local government board of appeals shall be subject to exclusion from participation in proceedings in cases concerning tax obligations, and other cases regulated by the provisions of tax law in which:

- 1) they are a party;
- 2) they are in a legal relationship with the party such that resolving the case may affect their rights or obligations;
- 3) the party is their spouse, sibling, ascendant, descendant or person in-law of first degree;
- 4) the parties are related to them by adoption, custody or curatorship;
- 5) they were witnesses, experts, were or are the taxpayer's representative, or the taxpayer's representative is one of the entities referred to in item 3 and 4;

6) they took part in issuing the decision being appealed against;
7) there are circumstances in connection with which official, disciplinary or criminal proceedings were initiated against them;

8) the party is a person in a superior official position to them.

§ 2. The reasons for exclusion from settling the case shall also remain after the cessation of marriage, adoption, custody and curatorship.

§ 3. The direct supervisor of an employee or a customs officer shall be obliged to exclude him from participation in the proceedings at his or her, or the party's request, or to exclude him *ex officio*, if there are any circumstances not referred to in § 1 that might raise doubts as to the impartiality of the employee or a customs officer.

§ 4. If an employee or an officer is excluded, the head of a tax office, the head of a customs office, a village administrator, a mayor of the town (president of the city), a starost or a voivodeship marshal, a tax chamber director, a customs chamber director or the minister responsible for public finances, will appoint another employee or officer to conduct a case.

§ 5. In the event of excluding a member of the local government board of appeals, its chairman shall appoint a person authorised to replace the excluded person. If the local government board of appeals, as a result of excluding its members, cannot settle the case because there are insufficient members on the bench, the Chairman of the Council of Ministers shall, in a ruling, appoint another local government board of appeals to deal with the case.

Art. 131. Exclusion of the head of tax office.

§ 1. The head of a tax office shall be excluded from resolving cases concerning tax obligations or other cases regulated by the provisions of tax law if the case concerns:

1) the head of a tax office or his substitute;
2) a tax chamber director or his substitute;
3) the spouse, siblings, ascendant, descendant or person in-law of first degree of entities referred to in item 1 or 2;

4) anyone related by adoption, custody or curatorship with the person referred to in items 1 or 2.

§ 2. In the event of excluding the head of a tax office for the reasons referred to in:

1) § 1 item 1 and item 3 or 4 read with item 1 - the case shall be resolved by the head of a tax office appointed by a competent tax chamber director;

2) § 1 item 2 and item 3 or 4 read with item 2 - the case shall be resolved by the head of a tax office appointed by the minister responsible for public finances.

§ 3. In the event referred to in § 2 item 2, the minister responsible for public finances must not appoint the head of a tax office subordinate to the director of a tax chamber, whose director or deputy meet the prerequisites for exclusion.

Art. 131a. Exclusion of the head of the customs office. In matters of excluding the head of a customs office, Article 131 shall apply accordingly, except that in case referred to in Article 131 § 2 item 1, the head of a customs office shall be appointed by the competent customs chamber director.

Art. 131b. Ruling of appointing another tax authority. In matters of appointing another tax authority in the circumstances referred to in Article 131 and 131a, the ruling shall be issued.

Art. 132. Exclusion of a village administrator and mayor of a town.

§ 1. A village administrator, the mayor of a town (president of a city), a starost or a voivodeship marshal, their deputies and the treasurer of a local government unit shall be excluded from settling cases concerning their tax obligations, or other cases regulated by the provisions of tax law.

§ 2. The provision of § 1 shall also apply to matters concerning:

1) the spouse, siblings, ascendants, descendants or persons in-law to the first degree of entities referred to in § 1;

2) entities related by adoption, custody or curatorship with the entities referred to in § 1.

§ 3. In the event of excluding the tax authority referred to in § 1, a local government board of appeals shall issue a ruling appointing the authority competent to resolve the case.

Rozdział 3. A Party to the Tax Proceedings.

Art. 133. Definition of a party.

§ 1. A party to the tax proceedings is a taxpayer, a tax remitter or a tax collector, or their legal successor, as well as the third parties referred to in Articles 110-117a which, due to their legal interest, demand the activity of the tax authority to which the activity refers, or whose legal interest the activity of tax authority relates to.

§ 2. Individuals, legal persons or organisational units without legal personality other than those referred to in § 1 may also be parties to tax proceedings if, under the tax law, before a tax liability arose, special liabilities are imposed on it, or it intends to use entitlements resulting from this law.

§ 2a. In matters related to a refund of the tax on goods and services, a partner of the company referred to in Article 115 § 1, authorised under the provisions of the tax on goods and services to receive a tax refund may also be a party to the tax proceedings.

§ 3. In the event referred to in Article 92 § 3, spouses shall be one party to the proceedings, and each of them shall have right to act on behalf of both of them.

Art. 133a. Demands of social organisation.

§ 1. In matters concerning another person, a social organisation is entitled, with this person's consent, to demand:

1) that proceedings be instituted,

2) that the organisation be admitted to participate in the proceedings - if it is justified by the statutory aims of the organisation and is in the public interest.

§ 2. After recognising the demand of a social organisation as justified, a tax authority shall decide to institute proceedings *ex officio*, or allow the organisation to participate in the proceedings. A ruling on a refusal to initiate the proceedings or to allow participation at the proceedings may be complained against by the social organisation.

§ 3. A social organisation shall exercise the rights of a party to the proceedings.

Art. 134 (*repealed*)

Art. 135. Legal capacity. A legal capacity and a capacity to perform acts in law in tax cases are considered under the provisions of civil law, unless the provisions of tax law provide otherwise.

Art. 136. Attorney. A party may act through an attorney, unless the nature of activity requires personal action.

Art. 137. Description of an attorney.

§ 1. An attorney may be an individual with full capacity to undertake legal transactions.

§ 1a. An attorney of a party to proceedings before the customs authorities in matters relating to tax on goods and services and the excise duty on the import of goods may also be the person referred to in Article 79 of the Customs Law of 19 March 2004 (J.L. No. 68, item 622 and No. 273, item 2703), hereinafter referred to as the „Customs Law”.

§ 2. A power of attorney must be given in writing or orally reported to the minutes.

§ 3. The attorney shall add to files the original or an officially certified duplicate of the power of attorney. An advocate, an attorney-at-law or a tax adviser may themselves authenticate a duplicate of the power of attorney granted to them.

§ 3a. In each minor issue arising in the course of proceedings, a tax authority is entitled not to demand a power of attorney if the attorney is the party's spouse and there are no doubts as to the existence and scope of his or her authorisation to act on behalf of the party.

§ 4. In matters not regulated by § 1-3a the provisions of civil law apply.

Art. 138. Appointment of a representative.

§ 1. The tax authorities shall submit to the court an application to appoint a curator for a person incapacitated to undertake legal actions, or a person who is absent, unless a curator has already been appointed.

§ 2. If activities must be performed without undue delay, the tax authority will appoint a representative for an absent person, with its consent, the representative is authorised to act until the court appoints a curator for the absent person.

§ 3. If a legal person or an organisational unit without a legal personality may not conduct their affairs due to the lack of appointed bodies, the tax authority will submit to the court an application for a curator to be appointed.

Rozdział 4. Settling Cases.

Art. 139. Deadline for settling a case.

§ 1. A case that requires evidentiary proceedings to be conducted shall be settled without undue delay, but not later than within one month, and if the matter is particularly complicated then not later than within two months from the day of initiating the proceedings, unless the provisions of this act provide otherwise.

§ 2. Cases that may be settled with on the basis of evidence presented by the party, together with a request to initiate the proceedings or on the basis of commonly known facts and evidence known *ex officio* to the authority conducting the proceedings, shall be settled immediately.

§ 3. In appeal proceedings, a case shall be settled no later than within two months from receiving the appeal by the appeal authority, and cases in which a hearing was conducted or the party submitted an application for a hearing to be conducted - no later than within three months.

§ 4. The time periods referred to in § 1-3 shall not include the time periods provided for in provisions of the tax law to carry out certain activities, periods while the proceedings were suspended, and periods of delays caused by the party's fault, or causes independent of the authority.

Art. 140. Inactivity of the tax authority.

§ 1. A tax authority is obliged to notify the party of any case not settled by the appropriate deadline, giving the reasons for a failure to meet the time limit and indicating a new deadline for settling the case.

§ 2. The tax authority shall be obliged to the same duty where a failure to meet the deadline was not observed for reasons independent of the authority.

Art. 141. Complain on untimely settling the case.

§ 1. If the case is not settled by the appropriate deadline or the deadline determined on the basis of Article 140, a party shall be entitled to submit a reminder to:

- 1) the tax authority of a higher instance;
- 2) the minister responsible for public finances, if the case was not settled by the director of a tax chamber or the director of a customs chamber.

§ 2. The tax authority referred to in § 1, recognising the reminder as justified, shall set an additional deadline for settling the case and require a clarification of the reasons and indication of the people responsible for not settling the case within the deadline, and, if necessary, undertakes measures preventing any infringement of deadlines for settling the case in the future.

Art. 142. Liability of employees of the tax authority. An employee of a tax authority who, without justified reason, has not resolved the matter by the deadlines or has not performed the obligation under Article 140, or has not settled the matter in the additional deadline determined in accordance with Article 141 § 2, shall bear liability for the breach of order or disciplinary liability or other liability as provided by law.

Art. 143. Authorisation of employees of the tax authority.

§ 1. The tax authority may authorise a customs officer or an employee of a managed organisational unit to settle cases on its behalf and within the established scope and in particular to issue decisions, rulings and certifications.

§ 1a. The authorisation may include signing documents in electronic form with an electronic signature verified by a valid qualified certificate -excluding issuing certificates.

§ 2. The authorisation referred to in § 1 and 1a, may also be granted to:

- 1) employees of a tax office - by the head of a tax office;
- 2) employees of a tax chamber - by the director of a tax chamber;
- 3) customs officers or employees of a customs office - by the head of a customs office;

- 4) customs officers or employees of a customs chamber - by the director of a customs chamber.
§ 3. The authorisation shall be granted in writing.

Rozdział 5. Deliveries.

Art. 144. Method of delivering. The tax authority shall deliver letters by post against receipt, through its employees or authorised entities under separate provisions. If the tax authority is a village administrator, the mayor of a town (president of a city), letters may be delivered by the head of a village against receipt.

Art. 144a. Admissibility of electronic delivery.

§ 1. Letters, except for certificates, will be delivered by electronic means of communication, if an application to deliver letters by electronic means of communication is submitted by a party or if a party accepts it.

§ 2. (*repealed*)

Art. 145. Method of delivery.

§ 1. Letters shall be delivered to a party, and if a party acts through a representative - to the representative.

§ 2. If a party appointed an attorney, letters are delivered to the attorney.

§ 3. While appointing attorneys, a party shall appoint one of them as competent in matters of delivery. If the attorney competent in matters of delivery is not appointed, a tax authority will deliver a letter to one of the attorneys.

Art. 146. Change of an address of a party.

§ 1. In the course of the proceedings, a party, a representative or an attorney, is obliged to inform a tax authority of any change of address, including an e-mail address if an application has been submitted to a tax authority to deliver letters by electronic means of communication or if it has been accepted.

§ 2. In the event of any negligence in the duty referred to in § 1, a letter shall be deemed as delivered to a previous address, and the tax authority shall place the letter in the case files.

Art. 147. Attorney for delivery.

§ 1. If the party is abroad for at least two months, it is obliged to appoint an attorney for delivery.

§ 2. The obligation referred to in § 1 shall also be imposed on individuals that are non-residents according to foreign exchange law provisions.

§ 3. The appointment of the attorney for delivery shall be reported to the competent tax authority.

§ 4. If the obligations provided for in § 1-3 are not met, a letter will be deemed as delivered:

- 1) at the previous address - in the event referred to in § 1;
- 2) at the address of a previous temporary stay - in the event referred to in §2.

Art. 147a. Reference to the provisions of the new Customs Code. During proceedings before the customs authorities in cases concerning the tax on goods and services and the excise tax due on the import of goods, Articles 83 and 84 of the Customs Code shall apply.

Art. 148. Place of delivery.

§ 1. Letters shall be delivered to an individual in his or her residence or workplace.

§ 2. Letters may be also delivered:

- 1) in the registered office of a tax authority;
- 2) in the addressee's workplace - to an entity authorised by an employer to receive correspondence.
- 3) (*repealed*)

§ 3. If delivery of a letter in a manner referred to in § 1 and 2 is impossible, and in other justified events, letters shall be delivered to any place where the addressee is found.

Art. 149. Absence of the addressee. If an addressee is absent from his or her residence, letters shall be delivered against receipt to an adult household member, a neighbour or a caretaker, if these people undertook to transfer the letter to the addressee. The notification of a letter's delivery to a neighbour or a caretaker shall be placed in the delivery post box or on the door of the addressee's residence or in a visible place near the entrance to the addressee's property.

Art. 150. Public summons.

§ 1. If it is impossible to deliver a letter in the manner referred to in Article 148 § 1 or Article 149:

- 1) the post office shall keep the letter for 14 days - if a letter is delivered by post;
- 2) a letter shall be placed for 14 days in the district (city) office - if a letter is delivered by the tax authority's employee or by another authorised person.

§ 1a. The addressee shall be informed twice of the letter having been left in the place referred to in § 1. The second notification shall be made if the letter is not collected within seven days.

§ 2. Notifications about keeping a letter in the place referred to in § 1 shall be placed into a delivery post box or, if not possible - on the doors of the addressee's residence, his office or another property where the addressee works, or in a visible place near the entrance of the addressee's property. In this event, a letter shall be deemed as delivered after the lapse of the last day of the period referred to in § 1 and a letter shall be placed into the case files.

Art. 151. Letters to a legal person. Letters to legal persons and organisational units without legal personality shall be delivered in their registered office or where they perform their activity - to the entity authorised to receive the correspondence. The provisions of Article 146, Article 148 § 2 item 1 and Article 150 shall apply accordingly.

Art. 151a. Inconsistency of an address. If the registered office address indicated by a legal person or an organisational unit without legal personality does not exist or is inconsistent with the suitable register and the place where they perform activity cannot be determined, a letter shall be kept in the case file with the effect of delivery.

Art. 152. Confirmation of receipt.

§ 1. The person receiving a letter will confirm the delivery thereof by a hand-written signature indicating the date of delivery.

§ 2. If the person receiving a letter cannot confirm the delivery or evades confirmation, the person delivering a letter will confirm the delivery date and indicate the person that received the letter, giving the reason why no signature was given.

§ 3. When a letter is delivered by electronic means of communication, the delivery will be valid if within seven days from sending a letter, the tax authority receives a confirmation of delivery in an electronic form. If no confirmation is received, the tax authority will deliver the letter in a manner referred to in Article 144.

Art. 152a. The conditions of delivering letters in an electronic form.

§ 1. With the aim to deliver letters in an electronic form, a tax authority will send to the e-mail address of a party information indicating a download page, which will enable an addressee to download a letter and on which an addressee should confirm the receipt of the letter, and containing the direction referring to the manner of receipt of the letter, in particular to the manner of identification on the indicated download page in the tax authority's data transmission system and to the obligation of signing an official acknowledgement of receipt in a manner indicated in provisions of the Act on Informatisation of Activities of Entities Realizing Public Tasks of 17 February 2005.

§ 2. The technical and organisational conditions of the delivery of letters in an electronic form specify provisions of the Act referred to in § 1.

Art. 153. Refusal to receive.

§ 1. If the addressee refuses to receive a letter delivered in a manner referred to in Article 144, a letter will be returned to the sender with the annotation about the refusal to receive and the date thereof. A letter with this annotation will be placed into the case files.

§ 2. In the events referred to in § 1, the letter shall be deemed as delivered on the day that the addressee refuses to accept it.

Art. 154. Delivery of letters to a curator.

§ 1. Letters addressed to legal persons and organisational units without legal personality that do not have authorities, shall be delivered to a curator appointed by the court.

§ 2. Letters addressed to individuals whose place of residence is not known and the court has not appointed a representative for them, shall be delivered to a representative appointed in a manner referred to in Article 138 §2.

§ 3. Letters addressed to a person entitled to specific rights due to diplomatic or consular immunity shall be delivered in a manner indicated in specific provisions, in treaties and accepted international customs.

Art. 154a. Application of the minister.

§ 1. The minister responsible for public finances may apply to the authority of a member state of European Community responsible for tax cases, hereinafter called the „foreign authority”, for a letter issued by a tax authority to be delivered.

§ 2. The application referred to in § 1 shall include the data necessary to identify the entity that the letter shall be delivered to, in particular, its surname or name (business name) and address.

Art. 154b. Delivery of letters from a foreign authority. Letters issued by a foreign authority shall be delivered by the tax authority appointed by the minister responsible for public finances, according to the provisions of Articles 144-154.

Art. 154c. Reciprocity rule. The provisions of Article 154a and 154b shall apply to delivering letters concerning the matters referred to in Article 305b. Letters from foreign authorities not referred to in Article 305b shall be delivered on the basis of the reciprocity rule.

Rozdział 6. Summons.

Art. 155. Summons to appear.

§ 1. The tax authority may summon a party or other persons to make statements, give testimony or to perform a particular act personally, through an attorney or in writing, if it is necessary to clarify the facts of the case or to settle the case.

§ 2. If a summoned person cannot appear, due to a disease, a disability or other important reason, the tax authority may accept an explanation or a testimony or perform the act at the person's place of residence.

Art. 156. Local competence.

§ 1. The summoned person shall only be obliged to make a personal appearance only in the voivodeship in which this person is residing or staying.

§ 2. If the locally competent authority is the tax authority located in a voivodeship other than that referred to in § 1, the person obliged to appear personally may make a reservation that he or she wants to appear before the authority competent to resolve the case.

§ 3. If the tax proceedings have been initiated *ex officio*, the tax authority will issue a ruling initiating the proceedings, and will instruct the party of the possibility to submit the reservation referred to in § 2, within seven days of delivering the ruling.

Art. 157. Proceedings outside the place of residence.

§ 1. If the tax proceedings are conducted tax authority located outside the voivodeship in which the person who is obliged to appear personally lives or resides, and if the person has not made the reservation referred to in Article 156 § 2, the authority will request the tax authority competent for the place of residence or stay of this person to summon this person to make statements or give evidence or perform other activities connected with conducting the proceedings.

§ 2. In a request to another tax authority, the authority conducting the proceedings shall determine the circumstances that should be the subject of statements or testimony, or other activities required to be performed.

Art. 158. Exceptions. The provisions of Article 156 § 1 and Article 157 shall not apply in the events where the nature of the case or activity requires a personal appearance before the tax authority conducting the proceedings.

Art. 159. Content of the summons.

§ 1. The summons should indicate the following:

- 1) the name and address of the tax authority;
- 2) the name and surname of the summoned person;
- 3) the matter, character and purpose of summoning the person;
- 4) whether the person should be summoned to appear in person or through an attorney, or through statements or testimony in writing;
- 5) the time limit in which to perform the request, or the date, time and place for the summoned person or the attorney to appear;
- 6) the legal consequences of a failure to comply with the summons.

§ 1a. In the event of summoning the party to a hearing, the summons must also include information about the right to refuse consent to the hearing and the related possibility of non-appearance in response to the summons.

§ 2. A summons must be signed by an employee of the tax authority, indicating the name, surname and position of this person.

Art. 160. Other forms of summons.

§ 1. In matters justified by the important interest of the addressee, or when the urgency of the case requires it, the summons may be made by telegraph or telephone or by other means of communication, giving the data referred to in Article 159 § 1 and 1a.

§ 2. A summons transferred in the manner determined in § 1 shall have legal effect only when there is no doubt that the addressee has received the summons of the relevant content, and within an appropriate deadline.

Rozdział 7. Restoration of Deadlines.

(repealed) Article 161

Art. 162. Unintended failure to meet a deadline.

§ 1. In the event of a failure to meet a deadline, it shall be restored at the application of an interested person, if the person substantiates that the failure occurred without his or her fault.

§ 2. An application to restore a deadline must be submitted within seven days from the day of the failure to meet the deadline. When submitting an application, the activities for which the deadlines were determined are to be completed.

§ 3. The restitution of the deadline for submitting an application referred to in § 2 is not allowed.

§ 4. The provisions of § 1-3 shall apply to the deadlines of proceedings.

Art. 163. Restitution of a deadline.

§ 1. The competent tax authority decides on the restoration of a deadline.

§ 2. The tax authority competent to consider an appeal or a complaint shall make a final ruling on the restitution of a deadline for submitting an appeal or a complaint.

§ 3. The ruling referred to in § 1 may be complained against.

Art. 164. Suspending the implementation of the proceedings. Before considering an application to restore a deadline for submitting an appeal or a complaint, the tax authority of the first instance, at the request of the party, may suspend the implementation of the decision or ruling.

Rozdział 8. Initiating Proceedings.

Art. 165. Initiative to initiate the proceedings.

§ 1. Tax proceedings shall be initiated at the request of the party or *ex officio*.

§ 2. Proceedings *ex officio* are initiated in a ruling.

§ 3. The date of initiating proceedings at the request of the party is the day the application is delivered to the tax authority, subject to Article 165 a.

§ 3a. The tax authority shall inform all the other entities being parties in the case about the initiation of proceedings at the request of one of the parties.

§ 3b. The date of initiating proceedings at the request of the party, made by electronic means of communication, is the day when the request is logged in the tax authority's data transmission system.

§ 4. The date of initiating proceedings *ex officio* is the day on which a ruling on the initiation of the proceedings is delivered to the party.

§ 5. The provisions of § 2 and § 4 shall not apply to proceedings conducted in the case of:

1) establishing the tax obligations that, according to separate provisions, shall be established annually, if the facts of the case on the basis of which the amount of the tax obligation for the previous period was established, have not changed;

2) the redemption of tax arrears in matters referred to in Article 67d § 1;

3) declaring the decision immediately enforceable.

§ 6. In proceedings before the customs authorities in cases concerning the tax on goods and services and excise tax due to the import of goods, in the case referred to in Article 23 clause 2 of the Customs Code, the customs authority shall not issue a decision on initiating the proceedings. The date of initiating proceedings shall be deemed as the date of accepting a customs declaration.

§ 7. The tax authority shall not issue a ruling on the initiation proceedings if a tax statement is submitted by the taxpayers of inheritance and a donation tax. In such an event, the date of initiating the proceedings shall be considered as the date of submitting the tax statement.

Art. 165a. Ruling on a refusal to initiate proceedings.

§ 1. If the request referred to in Article 165 was submitted by an entity that is not a party, or if for any other reason the proceedings may not be initiated, the tax authority will issue a ruling on a refusal to initiate proceedings.

§ 2. The ruling referred to in § 1 can be complained against.

Art. 165b. Initiating tax proceedings.

§ 1. If a tax inspection reveals any irregularities in the taxpayer's compliance with the obligations resulting from the provisions of a tax law, or a failure to submit a declaration by the taxpayer, or a failure to correct a declaration taking into account all the revealed irregularities, then a tax authority will initiate tax proceedings concerning the subject of the tax inspection, no later than six months after the end of the inspection.

§ 2. The provision of § 1 shall not apply where explanations or stipulations to the inspection report made by the inspected party have been fully accepted by the inspecting authority.

§ 3. In the matter referred to in § 1, tax proceedings may be initiated later than six months from the end of the tax inspection, if:

- 1) the taxpayer makes another correction of the tax return in which the irregularities revealed during the tax inspection were not taken into account;
- 2) the tax authority receives information from the tax authorities or other authorities justifying the initiation of tax proceedings.

Art. 166. Joining the proceedings.

§ 1. Where the rights and obligations of the parties result from the same facts of the case and the same legal basis and the same tax authority is competent, one legal proceeding may be initiated and conducted involving more than one party.

§ 2. The tax authority shall issue a ruling on joining the proceedings; this ruling may be complained against.

Art. 166a. Applying the provisions of the Customs Code. In proceedings before the customs authorities in cases regarding the tax on goods and services and excise tax on the import of goods, Article 90 of the Customs Code shall apply.

Art. 167. Scope of the demand.

§ 1. Until the authority of the first instance issues a decision, the party is entitled to apply for an extension of the scope of the demand, or may submit a new demand, regardless of whether the demand results from the same legal basis as the current one, provided that it concerns the same facts of the case. The deadline referred to in Article 139 § 1 shall run anew from the day that the demand is extended or from the submission of a new demand.

§ 2. A refusal to grant a demand to change the scope of the proceedings shall be given in a ruling. Where the demand is not granted, separate tax proceedings shall be initiated; the provisions of Article 165 § 1-3b shall apply accordingly.

Art. 168. Forms of petitions.

§ 1. Petitions (demands, explanations, appeals, complaints, reminders, applications) may be submitted in writing or orally to the protocol and also by electronic means of communication through the electronic submission box of the tax authority created on the grounds of the Act on Informatization of Activities of Entities Realizing Public Tasks of 17 February 2005.

§ 2. The petition must include at least the content of the demand, an indication of the applicant and his or her address (place of residence or stay, registered office or place of conducting activity), and must meet other requirements provided for in separate provisions.

§ 3. A petition submitted in writing or orally on record must be signed by the applicant, and the record shall also be signed by the employee who prepared it. If a petition is submitted by a person who is unable or cannot sign, the petition or the record will be signed by an authorised person, with a mention about it next to the signature.

§ 3a. A petition submitted in an electronic form should:

1) be authenticated using mechanisms referred to in the Article 20a item 1 or item 2 of the Act on Informatization of Activities of Entities Realizing Public Tasks of 17 February 2005 and

2) contain data in the specified format included in the template for the application form indicated in separate provisions, if these provisions impose lodging applications according to the specified template.

§ 4. The tax authority is obliged to confirm the lodging of an application, if an applicant requests it. If an application is submitted in form of an electronic document, the authority is obliged to confirm the lodging of the application by submitting an official confirmation of receipt to the e-mail address indicated by the applicant.

§ 5. *(repealed)*

Art. 169. Petition not meeting the demands.

§ 1. If the petition does not meet the requirements provided for by law, the tax authority will summon the applicant to remove the defects within seven days, with the explanation that not meeting this demand will result in the petition not being settled.

§ 1a. If the petition does not include the address, the tax authority will not settle it. In this event, the summons referred to in § 1 will not be made and the ruling referred to in § 4 will not be issued.

§ 2. The provision of § 1 shall also apply if the party has not made any payment that must be paid in advance under separate provisions.

§ 3. However, a tax authority shall consider a petition not meeting the conditions referred to in § 2, if:

- 1) considering the petition without delay is in the public interest or is of important interest of the party;
- 2) submitting the petition is an activity with an established limitation period;
- 3) the petition has been submitted by an entity residing abroad.

§ 4. The tax authority shall issue a ruling on leaving the petition without being settled, which may be complained against.

Art. 170. Petition to the improper authority.

§ 1. If the tax authority to which the petition has been submitted to is not competent in a case, the petition will be transferred to the competent authority without delay and the applicant will be informed.

§ 2. A petition submitted to an incompetent authority before the lapse of the deadline indicated by law shall be deemed to have been submitted before the due deadline.

Art. 171. Petition concerning several cases.

§ 1. If the petition concerns several cases to be settled by separate authorities, the tax authority to which the petition was submitted will settle the case it is competent for. The tax authority shall also inform the applicant that he or she should submit separate petitions to other competent authorities, and shall inform him or her of the content of § 2.

§ 2. If the tax authority receives a petition submitted further to the information referred to in § 1, within 14 days from the delivery of the information, then the petition is considered to have been submitted on the day that the first petition was submitted, though it shall not result in shortening the deadlines referred to in Article 139 § 1 and 3.

§ 2a. If the petition concerns several cases, including cases that will not be settled by the tax authorities, the tax authority that the petition was submitted to, will inform the applicant that in those cases he or she should submit separate petitions to the competent authorities, informing him or her of the content of Article 66 § 2 of the Code of Administrative Proceedings.

§ 3. If the petition has been submitted to an incompetent authority, and a competent authority cannot be defined on the grounds of the data included in the petition, or according to the petition the competent authority is a court, the tax authority will return the petition to the applicant with the appropriate information. The petition's return shall be made in a ruling, which may be complained against.

§ 4. The tax authority may not return the petition because the common court is competent, if the court has declared itself to be incompetent in this case.

Rozdział 9. Minutes and Annotations.

Art. 172. Obligation to prepare the minutes.

§ 1. The tax authority shall prepare concise minutes of any activity of proceedings that are relevant to resolving the case, unless the activity has been otherwise fixed in writing.

§ 2. In particular, minutes shall be drawn up of:

- 1) accepting oral petitions;
- 2) hearing the party, witness and expert;
- 3) visual inspections and expertise made in the participation of a tax authority employee;
- 4) oral announcement of a ruling;
- 5) trial.

Art. 173. Content of the minutes.

§ 1. The minutes shall be prepared in the manner making it clear what activities were performed, by who, when and where; who was present and what was their function; what was established as a result of those activities; and what observations were reported by those present.

§ 2. The minutes shall be read out to all those present participating in official activities, and then it shall be signed by these people. A refusal to sign or lack of signature by any person will be noted in the minutes.

Art. 174. Minutes of a hearing.

§ 1. The minutes of a hearing shall be read out and submitted to the witness to sign immediately after giving a deposition.

§ 2. The minutes from a hearing of a person who has given evidence in a foreign language must include the translation into Polish, together with an indication of the translator who has translated the minutes into Polish and his or her address. The translator signs the minutes of the hearing.

Art. 175. Addition of evidence. The tax authority is entitled to allow a deposition in writing, signed by the dependent, or other documents relevant to the case to be attached to the minutes.

Art. 176. Cancellations in the minutes. Cancellations and corrections to the minutes shall be made so that the cancelled and corrected words are legible. Cancellations and corrections shall be confirmed in the minutes before signing.

Art. 177. Annotations. The activities of a tax authority from which minutes are not prepared and which are relevant to the case or the course of proceedings, shall be preserved in the files in the form of an annotation signed by an employee performing such activities.

Rozdział 10. Making Files Available.

Art. 178. Right to access a case file.

§ 1. The party has access to the case file and has the right to make notes, copies or duplicates thereof. This entitlement shall last after the completion of the proceedings.

§ 2. The activity determined in § 1 shall be made at the premises of a tax authority in the presence of an employee.

§ 3. A party may request certifications of duplicates or a copy of the case file, or for certified duplicates from the case file to be issued.

§ 4. A tax authority may provide the party with an access in the tax authority's data transmission system to applications lodged in form of an electronic document and to letters of the tax authority submitted by electronic means of communication, after identification of the party in a manner indicated in provisions of the Act on Informatisation of Activities of Entities Realizing Public Tasks of 17 February 2005.

Art. 179. Case file subject to secrecy.

§ 1. The provisions of Article 178 shall not apply to the documents included in a case file under the protection of State secrecy, and other documents that can be excluded from the case file on the basis of public interest.

§ 2. A refusal to enable the party to become acquainted with the documents referred to in § 1, to make notes, copies and duplicates thereof, to certify the copies and duplicates or issue the certified duplicates shall be made in of ruling.

§ 3. The ruling referred to in § 2 may be complained against.

Rozdział 11. Evidence.

Art. 180. Definition of evidence.

§ 1. Anything that may contribute to clarifying the case and that is not illegal may be admitted as evidence.

§ 2. Unless the provisions of law require an official confirmation of certain facts or legal status by a certificate, a tax authority shall collect a statement from the party, at its request, under the threat of criminal responsibility for false depositions; the provisions of Article 196 § 3 shall apply accordingly.

Art. 181. Detailed definition. Evidence in tax proceedings may include, in particular, tax accounts, tax returns submitted by the party, the testimony of witnesses, opinions of experts, materials and information collected by a visual inspection, tax information and other documents collected in the course of the inspection activity or tax inspection, subject to Article 284a § 3, Article 284b § 3 and Article 288 § 2, and the materials collected in the course of criminal proceedings or proceedings on revenue offences or revenue petty offences.

Art. 182. Information from banks.

§ 1. If, from the evidence collected in the course of fiscal proceedings, it appears that it is necessary to supplement that evidence, or compare it against the information from the bank, the bank is obliged, at the written request of the head of a tax office or head of a customs office, to prepare and transfer information concerning the party to the proceedings within scope of:

- 1) bank accounts or savings accounts held, their number, as well as the turnover and status for these accounts;
- 2) financial or securities accounts held, their number, as well as the turnover and status for these accounts;
- 3) credit or loan agreements concluded and deposit agreements;
- 4) shares or bonds purchased through banks from the State Treasury, and trade in those securities;
- 5) trade in certificates of deposit issued by banks or other securities.

§ 2. The provisions of § 1 shall apply accordingly to insurance companies, investment funds and banks conducting brokerage activities, to the extent of the individual pension accounts, as well as to brokerage houses and co-operative savings and credit unions.

§ 3. Investment fund companies, at the written request of the head of a tax office or head of a customs office, shall be obliged to prepare information about redeemed participation units. The provisions of § 1, in the section concerning a request, shall apply accordingly.

§ 4. A request for the information referred to in § 1, shall be made by in a ruling.

Art. 183. Request to transfer the information. The head of a tax office or head of a customs office may request the information referred to in Article 182 after having issued a summons for the relevant information, or having authorised the head of a tax office or head of a customs office to request to the financial institutions to transfer this information, and the party within the fixed time limit:

- 1) did not supply the information;
- 2) did not properly authorise the head of a tax office or the head of a customs office to request the financial institutions to provide information;
- 3) provided information that requires supplementing or comparing with information from financial institutions.

Art. 184. The content of the request.

§ 1. The head of a tax office or the head of a customs office submitting the request referred to in Article 182 shall pay particular attention to the principle of special trust between financial institutions and their customers.

§ 2. The request shall include the scope of information and the time limit for its transfer. The provisions of Article 82 § 4 shall apply accordingly.

§ 3. The request shall also include:

- 1) an indication of the prerequisites justifying the need to obtain the information covered by the request;
- 2) evidence confirming that the party:
 - a) refused to provide information or
 - b) did not agree to give the head of the tax office or the head of the customs office authorisation to request the information or
 - c) did not provide the information or authorisation within the time limit determined by the head of the tax office or the head of the customs office.

§ 4. The head of the tax office or the head of the customs office shall send a copy of the request to the director of the superior tax chamber, or the director of the superior customs office.

Art. 185. Refusal to provide the information. The financial institution referred to in Article 182 shall refuse to provide the information if the request of the head of a customs office or the head of a tax office does not meet the formal requirements determined in Article 184 § 2 and 3.

Art. 186 (repealed)

Art. 187. Evidence material.

§ 1. The tax authority is obliged to collect and exhaustively consider all evidence.

§ 2. The tax authority is allowed, at each stage of the proceedings, to amend, supply or reverse its ruling on evidence.

§ 3. Facts of common knowledge and the facts known to the tax authority *ex officio* shall not require evidence. Facts known to the tax authority *ex officio* shall be communicated to the party.

Art. 188. Request of the party. A request by the party to produce evidence shall be granted if the evidence is relevant to the case, unless the circumstances are sufficiently confirmed by other evidence.

Art. 189. Time limit for submitting evidence.

§ 1. The tax authority may set a time limit for the party to submit evidence in its possession.

§ 2. The time limit shall be determined taking into account the nature of the evidence and the state of the proceedings, but it may not be shorter than three days.

Art. 190. Witness testimony.

§ 1. The party shall be informed of the place and date for producing witness testimony, expert opinions or inspections, at least seven days before the deadline.

§ 2. The party is entitled to participate in producing the evidence, may ask questions to witnesses and experts, and may make explanations.

Art. 191. Considering the evidence. On the grounds of all the evidence collected, the tax authority shall consider whether the specific circumstance is proven.

Art. 192. Circumstances considered as proven. Actual circumstances shall be deemed proven if the party had the ability to express its opinion on the evidence produced.

Art. 193. Evidence from tax registers.

§ 1. Tax registers kept reliably and correctly shall be evidence of the circumstances indicated therein.

§ 2. Tax registers shall be deemed reliable if their entries reflect the actual state.

§ 3. Tax registers kept accordingly to the rules provided for in separate provisions shall be deemed as correct.

§ 4. The tax authority shall not consider tax registers as evidence according to § 1, if they are kept unreliably or incorrectly.

§ 5. However, the tax authority shall consider as evidence the tax registers that are kept incorrectly, if defects have no essential impact on the case.

§ 6. If the tax authority finds that tax registers are kept unreliably or incorrectly, it will determine in an inspection report from the registers, for what term and in what part the registers will not be considered as evidence of circumstances resulting from entries in the registers.

§ 7. The tax authority presents the party with a copy of the report referred to in § 6.

§ 8. Within 14 days from the when the report is delivered, the party is entitled to submit reservations to its conclusions, at the same time submitting evidence enabling the tax authority to define the correct taxable base.

Art. 194. Official documents.

§ 1. Official documents prepared in a form specified by the provisions of law by competent public authorities are evidence of circumstances officially stated therein.

§ 2. The provision of § 1 shall apply accordingly to official documents arranged by other entities, provided that they are entitled to issue them on the grounds of separate provisions.

§ 3. The provisions of § 1 and 2 shall not prevent evidence from being brought against the documents referred to in those provisions.

Art. 194a

§ 1. If a document is included in the files kept by the authority or unit, referred to in the Article 194 § 1 and § 2, it shall be sufficient to submit an officially authenticated copy by such authority or unit or to submit an excerpt from this document. The tax authority shall request to submit a duplicate or excerpt if a party is unable to obtain them. If the tax authority recognizes that inspection of the original of the document is necessary it may require to submit it.

§ 2. Instead of submitting an original of a document the party may submit a copy certified by the notary public or acting in the case party's attorney being an advocate, attorney-at-law or tax adviser.

§ 3. The certification of the copy made by acting in the case party's attorney being an advocate, an attorney-at-law or tax adviser, included in the document shall have an official document character.

§ 4. If it is justified by the circumstances of the case the tax authority shall require the party submitting a document referred to in § 2 to submit an original of the document.

Art. 195. Witnesses. Witnesses may not be:

1) anyone unable to notice or communicate his observations;

2) anyone obliged to keep state or official secrecy, in terms of circumstances that are subject to such secrecy, if they were not exempted from the duty to maintain this secrecy according to the procedure provided for in the provisions in force;

3) priests of legally confirmed religions - on facts that are subject to the seal of confession.

Art. 196. Refusal to testify.

§ 1. Nobody has the right to refuse to testify as a witness, with the exception of the party's spouse, ascendants, descendants, siblings, persons-in-law to the first degree and entities that remain in a relationship of adoption, custody or curatorship with the party. The right to refuse to testify shall also continue after the end of the marriage, or the adoption, custody or curatorship relationship.

§ 2. Witnesses have the right to refuse to answer questions if the answers might expose them or their relatives referred to in § 1 to criminal or criminal-fiscal liability or results in an infringement of a legally protected professional secret.

§ 3. Before hearing the witness, the tax authority shall inform the witness about the right to refuse to testify and to answer the question, and about criminal responsibility for false testimony.

§ 4. The minister responsible for public finances, in conjunction with the Minister of Justice, will issue a regulation setting out the procedure of preparing and keeping a record of testimony in terms of circumstances that are a subject to the obligation to keep state, company or professional secrecy.

Art. 197. Appointment of experts.

§ 1. If special information is required in the case, a tax authority has the right to appoint an expert with the information, with the aim to issue the opinion.

§ 2. Appointing an expert shall be performed *ex officio*, if the provisions of tax law require an expert opinion.

§ 3. The provisions of Article 130 § 1 and 2 shall apply to the exclusion of the expert. Otherwise, the provisions on hearing a witness shall also apply to experts.

Art. 198. Inspection.

§ 1. The tax authority may carry out an inspection if necessary.

§ 2. If the subject of the inspection is in the possession of third parties, they are obliged to present it at the tax authority's request.

Art. 199. Hearing the party. The tax authority may hear the party, with its consent. The provisions on witnesses shall apply to the party's examination, except for the provisions on coercive measures.

Art. 199a. Unanimous intention of the parties.

§ 1. While establishing the content of the legal action, the tax authority shall take into account the unanimous intention of the parties and the aim of the action, not only the literal meaning of statements of intent made by the parties.

§ 2. If, under the pretext of performing the legal action, another legal action is performed, the fiscal results will be derived from the concealed legal action.

§ 3. If, according to the evidence collected in the course of the proceedings, there are doubts about the existence or non-existence of a legal relationship or right, especially a party's testimony, then, unless the party refuses to testify, a tax authority will file a declaratory action to a common court to establish the existence or non-existence of the legal relationship or right.

Art. 200. Party's opinion.

§ 1. Before issuing a decision, the tax authority shall set a seven-day deadline for the party to express his opinion on the evidence collected.

§ 2. The provision of § 1 shall not apply:

- 1) in the events referred to in Article 123 § 2 and in Article 165 § 5;
- 2) in cases involving security and a treasury lien;
- 3) in the event referred to in Article 165 § 7, if the decision is to be issued only on the grounds of the data included in a submitted tax statement.

Rozdział 11a. Hearings.

Art. 200a. Circumstances of conducting a hearing.

§ 1. The appellate authority shall conduct a hearing in the course of the proceedings:

1) *ex officio* - if necessary to clarify the relevant circumstances of the case with the participation of witnesses or experts, or by a visual inspection, or to clarify the legal arguments presented by the party in the course of the proceedings;

2) at the request of the party.

§ 2. The party, in the application to hold a hearing, must justify the need for it, indicating what circumstances are to be explained and what activities are to be performed at the hearing.

§ 3. The appellate authority may refuse to hold a hearing, if the subject of the hearing concerns circumstances irrelevant to the case, or circumstances that have already been sufficiently proven by other evidence.

§ 4. A ruling shall be issued in the case of a refusal to conduct a hearing.

Art. 200b. Hearing deadline. A hearing date shall be set so that the summons can be delivered at least seven days before the hearing.

Art. 200c. Participants at the proceedings.

§ 1. The hearing shall be conducted by an authorised employee of the appellate authority.

§ 2. When proceedings are held before the local government board of appeals, the hearing shall be conducted by the chairman or an appointed member of the board.

§ 3. The authorised employee of the first instance authority whose decision was appealed against shall attend the hearing.

Art. 200d. The course of the hearing.

§ 1. At the hearing, a party may make explanations, announce requests, suggestions and objections, and provide supporting evidence. In addition, a party may express opinions about the results of the evidentiary proceedings.

§ 2. The person conducting the hearing may waive a question asked by a participant of the hearing if it is not significant to the case. However, the parties may request that the content of the waived questions be included in the minutes.

Rozdział 12. Suspension of the Proceedings.

Art. 201. Prerequisites for suspension.

§ 1. The tax authority shall suspend the proceedings:

- 1) in the event of the death of the party, unless the proceedings are discontinued as pointless;
- 2) if considering the case and issuing the decision depends on considering a preliminary issue by a different authority or court;
- 3) in the event of death of the statutory representative of the party;
- 4) in the event of a loss of capacity to legal transactions by the party or a statutory representative;
- 5) in the case of a third party's liability - until the decision referred to in Article 108 § 2 becomes final and valid, subject to Article 108 § 3 and Article 115 § 4;
- 6) if an application to another country's authorities to transfer information necessary to establish or determine the amount of tax obligation is submitted according to ratified treaties on the avoidance on double taxation or other ratified treaties the Republic of Poland is a party to.

§ 2. A ruling on suspending the proceedings shall be delivered to the party or his or her heirs.

§ 3. A ruling on suspending the proceedings may be complained against.

Art. 202. Cessation of the reasons for suspending the proceedings. The tax authority that suspended the proceedings for the reasons referred to in Article 201 § 1 items 1, 3 and 4, shall not undertake any activities, except in order to resume the proceedings or to secure the evidence.

Art. 203. Considering a preliminary issue.

§ 1. The tax authority that has suspended the proceedings for the reason referred to in Article 201 § 1 item 2 shall, at the same time, summon the party to apply to the competent authority or court to resolve the preliminary issue, unless the party confirms that he or she has already applied to the competent authority or court.

§ 2. If the party has not applied to the competent authority or court by the set deadline, the tax authority will apply *ex officio* to the competent authority or court to resolve the preliminary issue.

Art. 204. Proceedings on relief.

- § 1. At the request of the party, the tax authority may suspend proceedings on granting tax relief.
§ 2. If, within three years from the day of suspending the proceedings, the party does not apply for their resumption, the request to initiate proceedings is considered to have been withdrawn.
§ 3. In a ruling on the suspension of the proceedings, the tax authority shall inform the party about the contents of § 2.

Art. 204a. Applying the provisions of the new Customs Code. In proceedings before the customs authorities, in cases regarding the tax on goods and services and the excise tax due on the import of goods, Article 87 of the Customs Code shall apply.

Art. 205. Resumption of the proceedings.

§ 1. The tax authority shall issue a ruling resuming the suspended proceedings *ex officio* or at the party's motion, after the reasons justifying the suspension of the proceedings have been resolved.

§ 2. A ruling on a refusal to resume suspended proceedings may be complained against.

Art. 205a. Initiation of the proceedings ex officio.

§ 1. The tax authority shall resume the proceedings *ex officio*, when the reason for the suspension has ceased, in particular:

1) in the event of the death of the party- after the heirs of the deceased have appeared or have been identified, or after a curator has been appointed in a procedure provided for in separate provisions;

2) in the event of a loss of capacity to legal transactions -after a curator has been appointed;

3) if no statutory representative is established - after a statutory representative has been appointed;

4) if the settlement of the case depends on the settlement of a primary issue by another authority or court - on the day that the tax authority learns about the judgement becoming final and valid.

§ 2. If, within one year from issuing a ruling on the suspension of the proceedings, no heirs of the deceased party have appeared or been indicated, the tax authority may apply to court to appoint a curator of the inheritance, unless a curator has already been appointed.

Art. 206. Cessation of deadlines. The suspension of the proceedings shall also suspend the course of deadlines provided for in this Section.

Rozdział 13. Decisions.

Art. 207. Decision.

§ 1. The tax authority shall decide a case in a decision, unless the provisions of this act provide otherwise.

§ 2. The decision shall resolve the case on its merits, or shall otherwise terminate the proceedings at the instance.

Art. 208. Discontinuance.

§ 1. When the proceedings become pointless for any reason, in particularly by the limitation of the tax obligation, the tax authority will issue a decision discontinuing the proceedings.

§ 2. The tax authority may discontinue proceedings at the request of the party upon whose request the proceedings were initiated, as long as other parties do not raise objections and it is not contrary to the public interest.

Art. 209. Opinion of other authorities.

§ 1. If the provisions of law make issuing a decision dependent on taking a position by another authority, whether expressing an opinion or consent, or expressing its attitude in another form, the decision will be issued after the authority expresses its position.

§ 2. The tax authority settling the case, if requesting another authority to take a position, shall give the party a notice thereof.

§ 3. The authority that has been requested to take a position is obliged to provide it immediately, but no later than within 14 days from the day of delivering an application to take a position.

§ 4. The authority obliged to take a position may, where necessary, conduct explanatory proceedings.

§ 5. The authority takes a position in a ruling, which may be complained against unless separate provisions provide otherwise.

§ 6. If the position was not expressed by the deadline referred to in § 3, the provisions of Articles 139-142 shall apply accordingly.

Art. 210. Content of the decision.

§ 1. The decision must include:

1) the designation of the tax authority;

2) the date of its issue;

3) a description of the party;

4) a reference to the legal basis;

5) the settlement of the case;

6) the factual and legal justification;

7) instructions on appeal proceedings - if the decision maybe appealed against;

8) the signature of an authorised person, giving the name, surname and official position.

§ 2. A decision against which court action may brought or a claim to the administrative court may be filed must also include instructions on the possibility of bringing an action or filing a claim.

§ 2a. A decision imposing a duty on the party that is enforceable pursuant to the provisions of the enforcement proceedings in the administration, must also include a notice of criminal liability for the removal, concealment, transfer, donation, destruction or real or apparent damage, or damage to assets, aimed at preventing the execution of a duty resulting from this decision.

§ 3. The provisions of the tax law may also specify other elements that should be included in a decision.

§ 4. A factual justification of the decision must include, in particular, an indication of the facts that the authority has considered to have been proved, evidence the authority found to be reliable and the reasons for which it has found other evidence to be unreliable, whereas a legal justification shall include an explanation of the legal basis for the decision, quoting the provisions of law.

§ 5. The authority may forego the justification of the decision, if it allows the party's request in full. This shall not apply to a decision issued as a result of an appeal or on the basis of which tax relief has been granted.

Art. 211. Form of the decisions. The decision shall be delivered to the party in writing.

Art. 212. Binding nature of a decision. The tax authority that issued the decision is bound by it upon its delivery. The decisions referred to in Article 67d shall be binding for tax authorities upon their issue.

Art. 213. Request to complement the decision.

§ 1. A party may, within 14 days of delivering the decision, request to complement the decision as to settlement or as to the right of appeal, filing an action against the decision before a court or a claim to an administrative court, or as a rectification of the instruction included in the decision.

§ 2. The tax authorities may *ex officio*, at any time, add or correct the decision referred to in § 1.

§ 3. An addendum or correction of the decision shall be made in a decision.

§ 4. In the case of issuing a decision on an addendum or correction of the decision, the deadline to file an appeal or a complaint shall run from the day of delivery of that decision.

§ 5. A refusal to add or correct a decision must be made in a ruling, which may be complained against. The provisions of § 4 shall apply accordingly.

Art. 214. Instructions on appeals. The party may not suffer as a result of an erroneous instruction in the decision as to the right to appeal, an action to the court or filing a claim to an administrative court, or the lack of such instruction.

Art. 215. Correction of errors.

§ 1. The tax authority may, *ex officio* or at the request of the party, issue a ruling rectifying any accounting errors and other obvious errors in the decision issued by that authority.

§ 2. At the request of the parties or the enforcement authority, the tax authority that issued the decision is obliged to issue a ruling clarifying the doubts concerning the content of a decision.

§ 3. A ruling on correction and clarification may be complained against.

Rozdział 14. Rulings.

Art. 216. Rulings.

§ 1. In the course of the proceedings the tax authority shall issue rulings.

§ 2. Rulings shall concern separate issues arising in the course of the proceedings, but shall not resolve the case on its merits, unless the provisions of this act provide otherwise.

Art. 217. Content of the ruling.

§ 1. A ruling shall include:

- 1) the designation of the tax authority;
- 2) the date of issue of the ruling;
- 3) the designation of the party or other entities taking part in the proceedings;
- 4) the legal basis;
- 5) the settlement of the case;
- 6) instructions on whether and pursuant to what procedure the ruling may be complained against or a claim to the administrative court may be filed;
- 7) the signature of an authorised person, including name, surname and official position.

§ 2. The ruling shall include factual and legal justification, if it may be complained against or whether a claim can be filed to the administrative court, if as a result of a complaint against the ruling.

Art. 218. Form of the ruling. A ruling that may be complained against or may be a subject of the claim to the administrative court must be delivered in writing.

Art. 219. Reference. The provisions of Articles 208, 210 § 2a and § 3-5 and also Articles 211-215 shall apply accordingly to the rulings, and the provisions of Articles 240-249 and Articles 252 shall apply to rulings that may be complained and also to rulings referred to in Article 228 § 1; however, instead of the decision referred to in Article 243 § 3, Article 245 § 1 and Article 248 § 3, a ruling shall be issued.

Rozdział 15. Appeals.

Art. 220. Appeal against a decision.

§ 1. A decision of the tax authority issued at first instance may be appealed against by the party only once to the authority of higher instance.

§ 2. The tax authority of higher instance is competent to consider the appeal.

Art. 221. Decisions of the higher instance. In the case of issuing a decision in the first instance by the minister responsible for public finances, the director of a tax chamber, the director of a customs chamber or the local government board of appeals, the appeal against the decision is to be considered by the same tax authority, applying accordingly the provisions of the appeal procedure.

Art. 222. Content of the appeal. An appeal against the decision of the tax authority shall include objections against the decision, the essence and the scope of the request that is subject to an appeal, and shall indicate the evidence justifying the demand.

Art. 223. Procedure of the appeal.

§ 1. The appeal shall be lodged to the competent appellate authority through the tax authority that has issued the decision.

§ 2. The appeal must be lodged within 14 days from the day of delivering:

- 1) the decision to the party;
- 2) the notice referred to in Article 103 § 1.

Art. 223-225a (repealed)

Art. 226. Reversal of the decision.

§ 1. If the tax authority that issued the decision decides that the appeal lodged by the party should be allowed in full, it will issue another decision reversing or amending the decision that has been appealed against.

§ 2. The new decision may be appealed against by the party.

Art. 227. Transfer of the appeal.

§ 1. The tax authority that receives the appeal shall transfer it with the case file to the appellate authority without delay, no later than within 14 days from the day of receiving the appeal, unless that tax authority issues the decision within the same time limit, in accordance with Article 226.

§ 2. While transferring a case, the tax authority is obliged to express its view on the presented objections.

Art. 228. Inadmissibility of an appeal.

§ 1. The appellate authority shall issue a ruling on:

- 1) the inadmissibility of the appeal;
- 2) not meeting the deadline for lodging an appeal;
- 3) leaving an appeal without consideration if it does not comply with the conditions listed in Article 222.

§ 2. Rulings in cases listed in § 1 shall be final.

Art. 229. Additional proceedings. The appellate authority may, at request of the party or *ex officio*, carry out additional proceedings to supplement the evidence and materials of the case, or may authorise the authority that issued the decision to carry out the proceedings.

Art. 230. Increase of the tax liability.

§ 1. If, in the course of the appellate proceedings, the authority considering the appeal finds that a tax obligation has been established or determined in a lower amount, or the amount of a tax refund has been established in a higher amount than according to the provisions of tax law, or a loss has been determined in a higher amount than actually incurred, it will return the case to the authority of the first instance to establish a complementary assessment by amending the issued decision. The ruling on returning the case shall be delivered to the party by the appellate authority.

§ 1a. The provision of § 1 shall apply accordingly if the difference between input and output tax according to the provisions on the tax on goods and services, reducing the due tax for subsequent settlement periods, has been determined in the higher amount than according to the provisions of tax on goods and services.

§ 2. A new decision is issued according to the provisions of law effective on the day when the tax liability arose.

§ 3. The party may appeal against the new decision, which shall be considered together with the appeal against the amended decision.

§ 4. If the party has not appealed against the new decision, the appellate authority will consider the appeal against the amended decision.

Art. 231 (repealed)

Art. 232. Withdrawal of an appeal.

§ 1. Subject to § 2, a party may withdraw an appeal before the decision is issued by the appellate authority.

§ 2. The appellate authority shall refuse the withdrawal of the appeal if there is a possibility of a decision remaining in force that infringes the provisions that justify its reversal or amendment.

Art. 233. Decisions of the appellate authority.

§ 1. The appellate authority shall issue a decision in which it:

- 1) affirms the decision of the first instance authority or
- 2) reverses the decision of the first instance authority:
 - a) partially or fully - and to that extent it shall decide on the merits of the case or, while reversing the decision, it shall discontinue the proceedings in the case,
 - b) in full and remands the case to the competent authority of the first instance, if the decision was issued due to an infringement of the provisions on competence, or
- 3) discontinues the appellate proceedings.

§ 2. The appellate authority is entitled to reverse the decision of the authority of the first instance in full and remand the decision to be reconsidered by this authority, if the settlement of the case first requires complete or significant evidentiary proceedings. While remanding the case, the appellate authority shall indicate the facts of the case that should be examined when the case is reconsidered.

§ 3. The local government board of appeals may issue a decision reversing and deciding the case on its merits only if the provisions of law do not leave the procedure of its settlement to sole discretion of the tax authority of the first instance. In other cases, the local government board of appeals, while allowing the appeal, shall only reverse the appealed decision.

Art. 234. Decisions to the disadvantage of the party. The appellate authority may not issue a decision to the disadvantage of appealing party, unless the appealed decision grossly breaches the law or public interest.

Art. 234a. Deadline for the return of the case files. The appellate authority shall return the case files to the authority of first instance no sooner than after the lapse of the deadline for filing a claim to the administrative court.

Art. 235. Reference. In cases not regulated by Articles 220-234 to the proceedings before the appellate authorities, the provisions relevant to proceedings before the authorities of the first instance shall apply accordingly.

Rozdział 16. Complaints.

Art. 236. Complaint against a ruling.

§ 1. A complaint may be lodged against a ruling issued in the course of proceedings if the act provides so.

§ 2. The complaint must be lodged within seven days from the day of delivering the:

- 1) ruling to the party;
- 2) notification referred to in Article 103 § 1.

Art. 237. Complaint against ruling. The party may lodge a complaint against a ruling that cannot be complained against, but only by an appeal against the decision.

Art. 238 (repealed)

Art. 239. Reference. In cases not regulated in this chapter, the provisions concerning appeals shall apply accordingly.

Rozdział 16a. Implementation of Decisions.

Art. 239a. Non-final decision. A non-final decision, imposing on the party a duty enforced pursuant to the provisions of the administration enforcement proceedings, shall not be enforced unless the decision has been declared immediately enforceable.

Art. 239b. Immediate enforcement.

§ 1. A non-final decision may be declared immediately enforceable if:

- 1) the tax authority has information that there are pending enforcement proceedings regarding other financial receivables against the party, or
- 2) the party does not have assets reflecting the amount of tax arrears with default interest, on which a compulsory mortgage or treasury lien with the priority of satisfaction may be established, or
- 3) the party performs activities consisting in the disposal of assets of a substantial value, or
- 4) the period to the lapse of the tax obligations limitation period is shorter than three months.

§ 2. The provisions of § 1 shall apply if the tax authority substantiates that the obligation resulting from the decision shall not be executed.

§ 3. The decision is declared immediately enforceable by the tax authority of the first instance in a ruling.

§ 4. A ruling on declaring a decision immediately enforceable may be complained against. Lodging a complaint shall not suspend the enforcement of the decision.

§ 5. Declaring a decision immediately enforceable shall not shorten the payment deadline resulting from the decision or provision of law.

Art. 239c. Legal character of a security decision. A decision on security shall be immediately enforceable by the force of law, unless a security referred to in Article 33d § 2 was accepted.

Art. 239d. Exclusion of immediate enforcement. A decision establishing or determining the amount of tax obligation, tax refund or the amount of default interest, or declaring the tax liability of the tax remitter or tax collector, third party or the legal successor, shall not be declared immediately enforceable to the extent referred to in Article 14m § 3.

Art. 239e. Rules of the enforcement of a final decision. A final decision shall be enforceable unless its enforcement was suspended.

Art. 239f. Suspension of the enforcement of a decision.

§ 1. The tax authority of the first instance shall suspend the enforcement of a final decision in the case of submitting a complaint to an administrative court to the day on which the judgement of administrative court becomes final and valid:

1) upon request - after accepting security on the performance of the obligation arising from the decision with default interest, which security is referred to in Article 33d § 2 - up to the amount of the security and the duration of it or

2) *ex officio* - after the valid entry of a compulsory mortgage or the entry of a treasury lien with the priority of satisfaction, which secures the performance of obligations arising from the decision, with default interest - up to the amount reflecting the value of the subject of compulsory mortgage or treasury lien.

§ 2. The request referred to in § 1 item 1, shall be settled without undue delay, and no later than within 14 days. A failure to settle the request by this deadline shall result in the suspension of the enforcement of the decision until a ruling on accepting a security is delivered, unless the reasons for failure to settle the request by the deadline have been caused by a party.

§ 3. In matters not regulated by the provisions of § 1 the provisions of Articles 33d-33g apply accordingly.

§ 4. In the case of suspending the enforcement of the decision a ruling shall be issued which may be complained against.

Art. 239g. Voluntary enforcement of a decision. The suspension of the enforcement of a decision shall not deprive the party of the possibility of voluntary performance of the decision.

Art. 239h. Rules on the calculation of default interest. The suspension of enforcement of the decision shall not affect the accrual of default interest.

Art. 239i. Mortgage; pledge. The establishment of a compulsory mortgage or a treasury lien shall not constitute the enforcement of a decision.

Art. 239j. Provisions applied accordingly. The provisions of this chapter shall apply accordingly to the enforcement of rulings.

Rozdział 17. Resumption of Proceedings.

Art. 240. Prerequisites for resuming proceedings.

§ 1. In cases settled by a final decision, the proceedings shall be resumed, if:

- 1) the evidence establishing the essential facts of the case turned out to be false;
- 2) the decision was issued as a result of a crime;
- 3) the decision was issued by an employee or tax authority that should have been excluded in accordance with Articles 130-132;
- 4) the party did not take part in the proceedings, through no fault of its own;
- 5) new significant facts or evidence was revealed, which existed on the day of issuing the decision but was not known to the authority that issued the decision;
- 6) the decision was issued without taking another authority's position into account, as required by law;
- 7) the decision was issued on the basis of another decision or court judgment that was afterwards reversed or changed in a manner that can affect the issued decision;
- 8) it was issued on the basis of a provision that has been ruled by the Constitutional Tribunal to be inconsistent with The Constitution of the Republic of Poland, the act or ratified treaty;
- 9) a ratified double taxation treaty or another ratified treaty that the Republic of Poland is a party to influences the issued decision;
- 10) the result of a settled mutual agreement procedure or of an arbitration procedure conducted on the basis of ratified double taxation treaty, or another ratified treaty the Republic of Poland is a party to, has an impact on an issued decision;
- 11) a judgment of The European Court of Justice influences the issued decision.

§ 2. If it is clear that evidence is false, or a crime has been committed and the resumption of the proceedings is necessary in order to protect the public interest, the proceedings for the reasons referred to in § 1 item 1 or 2 may be resumed also before the court issues a judgment declaring the evidence to be false or a crime having been committed.

§ 3. The proceedings may be resumed for the reasons referred to in § 1 item 1 and 2 also if the court proceedings cannot be initiated as a result of the lapse of time or for other reasons provided for in the provisions of law.

Art. 241. Initiative of the resumption.

§ 1. The proceedings shall be resumed *ex officio* or at the request of the party.

§ 2. The proceedings shall be resumed for the reason referred to in Article 240 § 1:

- 1) item 4, shall be resumed only at the request of the party submitted within one month from the day of obtaining information about the issue of the decision;
- 2) items 8 or 11, shall be resumed only at the request of the party submitted within one month from when the judgment of the Constitutional Tribunal comes into force, or the judgment of the European Court of Justice is published in the Official Journal of the European Union;
- 3) item 9, shall be resumed only at the request of the party.

Art. 242 (repealed)

Art. 243. Form of the decision on resumption.

§ 1. If the resumption of the proceedings is admissible, the tax authority shall issue a ruling on the resumption of the proceedings.

§ 1a. (repealed)

§ 2. The ruling shall be the basis for the competent authority to conduct proceedings on the prerequisites for resumption, and deciding the case on its merits.

§ 3. A refusal to resume the proceedings shall be made in a decision.

Art. 244. Competence of the authority.

§ 1. The competent authority in the matters listed in Article 243 shall be the authority that has issued the decision in the last instance.

§ 2. When the reason for resuming the proceedings is the operation of the authority referred to in § 1, the authority of higher instance shall decide in matters of resuming the proceedings, and it shall at the same time appoint the competent authority in the cases listed in Article 243 § 2.

§ 3. The provision of § 2 shall not apply if the decision has been issued in the last instance by the minister responsible for public finances, the director of a tax chamber, the director of a customs chamber or the local government board of appeals.

Art. 245. Issuing the new decision.

§ 1. After carrying out the proceedings referred to in Article 243 § 2, the tax authority shall issue a decision in which:

- 1) it shall reverse all or part of the current decision, if it ascertains the existence of the prerequisites referred to in Article 240 § 1, and to that extent decides a case on its merits or discontinues the proceedings;
- 2) it shall refuse to reverse all or part of the current decision, if it does not ascertain the existence of the prerequisites referred to in Article 240 § 1;
- 3) it shall refuse to reverse all or part of the current decision, if it ascertains the existence of the prerequisites referred to in Article 240 § 1, but:
 - a) as a result of reversing, the only decision that could be issued would resolve the case in the same way as the current decision or
 - b) a new decision on the merits of the case cannot be issued due to the lapse of deadlines provided for in Articles 68 or 70.

§ 2. While refusing to reverse the decision in cases referred to in § 1 item 3, the tax authority shall ascertain the existence of the prerequisites referred to in Article 240 § 1 and indicate the circumstances that prevent the reversal of the decision.

Art. 246. Withholding the implementation of the decision.

§ 1. The tax authority competent in matters of resuming proceedings shall, *ex officio* or at the request of the party, withhold the enforcement of the decision if the circumstances of the case indicate the possibility of reversing the decision as a result of resuming the proceedings.

§ 2. A ruling on withholding the implementation of the decision may be complained against by the party, unless the ruling was issued by the minister responsible for public finances, the director of a tax chamber, the director of a customs chamber or the local government board of appeals.

Rozdział 18. Ascertaining the Invalidity of a Decision.

Art. 247. Prerequisites for invalidating a decision's.

§ 1. The tax authority shall declare a final decision invalid that:

- 1) was issued in breach of provisions on competence;
- 2) was issued without legal basis;
- 3) was issued in gross breach of the law;
- 4) concerns a case that had already been settled by another final decision;
- 5) was addressed to an entity that is not a party to the proceedings;
- 6) was unenforceable on the day it was issued and its unenforceability is permanent;
- 7) includes a defect that causes it to be invalid under the explicit specified provision of law;
- 8) if implemented, would result in a punishable act.

§ 2. The tax authority shall refuse to declare a decision invalid if a new decision on the merits cannot be issued due to the lapse of deadlines referred to in Article 68 or Article 70.

§ 3. While refusing to declare a final decision invalid, in the case referred to in § 2, the tax authority shall ascertain in a settlement that the decision includes the defects referred to in § 1, and shall indicate the circumstances that prevent the decision from being invalidated.

Art. 248. Proceedings to ascertain invalidity.

§ 1. Proceedings to invalidate a decision shall be initiated *ex officio* or at the request of a party.

§ 2. Competent to invalidate a decision shall be:

- 1) an authority of a higher instance;
- 2) the minister responsible for public finances, the director of a tax chamber, the director of a customs chamber or the local government board of appeals, if the decision has been issued by this authority;
- 3) the minister responsible for public finances, if the decision was issued by the director of a tax chamber or the director of a customs chamber, though in this case the proceedings must be initiated *ex officio*.

§ 3. A settlement on the invalidation of a decision shall be made in the form of a decision.

Art. 249. Deadline for submitting a request.

§ 1. The tax authority shall issue a decision on the refusal to initiate proceedings to invalidate a final decision, in particular, if:

- 1) the request was submitted after the lapse of five years from the day of delivering the decision, or
- 2) the administrative court has dismissed a claim against the decision, unless the request is based on Article 247 § 1 item 4.

§ 2. The circumstances referred to in § 1 shall also be taken into account if the proceedings are initiated *ex officio*.

Art. 250 (repealed)

Art. 251 (repealed)

Art. 252. Withholding the decision appealed against.

§ 1. The tax authority competent in matters of invalidating a decision shall suspend the enforcement of the decision *ex officio* or at the request of the party, if there is a probability that it is affected by one of the defects referred to in Article 247 § 1.

§ 2. A ruling suspending the enforcement of the decision may be complained against.

Rozdział 19. Reversal or Amendment of a Final Decision.

Art. 253. Prerequisites of a reversal or amendment.

§ 1. A final decision whereby the party has not acquired a right may be reversed or amended by the tax authority that issued it if it is in the public interest or there is an important interest of a taxpayer.

§ 2. (repealed)

§ 3. The right referred to in § 1 may not be exercised by the local government board of appeals.

§ 4. In cases referred to in § 1, the competent authority shall issue a decision on the reversal or amendment of the current decision.

Art. 253a. Decision in which the party obtained the right.

§ 1. A final decision in which the party acquired the right may be reversed or amended, with the consent of the party, by the tax authority that issued it, provided that separate provisions do not contradict the reversal or amendment of the decision and it is in the public interest or there is an important interest of the party.

§ 2. The provisions of Article 253 § 3 and 4 shall apply accordingly.

§ 3. The authority may not issue the decision to the detriment of the party.

Not applying the provisions on the reversal or amendment of a decision Article 253b

The provisions of Article 253 and Article 253a shall not apply to a decision:

- 1) establishing or determining the amount of a tax obligation;
- 2) on the tax liability of tax remitters or tax collectors;
- 3) on the tax liability of third parties;
- 4) determining the amount of default interest due;
- 5) on the liability of an heir;
- 6) determining the amount of a tax refund.

Art. 254. Decision on the amount of liability.

§ 1. A final decision establishing or determining the amount of a tax obligation for a specified period may be amended by the tax authority that has issued it if after its delivery there was a change in the factual circumstances influencing the establishment or determination of the amount of the obligation, and the results of those circumstances were regulated by the provisions of the tax law in force on the day of issuing the decision.

§ 2. The amendment of a final decision can only concern the period for which the amount of the tax obligation was established or determined.

Art. 255. Reversal of a decision.

§ 1. The tax authority of the first instance shall reverse the decision if it was issued on the condition that the party performs certain actions, and the party did not perform the actions by the specified deadline.

§ 2. The tax authority shall reverse a decision in the form of a decision.

Art. 256. Deadline for initiating proceedings.

§ 1. The tax authority shall refuse to initiate proceedings on the reversal or amendment of the final decision, if the request was submitted after the lapse of five years from its delivery.

§ 2. The deadline referred to in § 1 shall also apply to initiating proceedings on the reversal or amendment of the final decision *ex officio*.

§ 3. A refusal to initiate the proceedings referred to in § 1 shall be made in the form of a decision.

Art. 257 (repealed)

Rozdział 20. Expiry of a Decision.

Art. 258. Prerequisites for the expiry of a decision.

§ 1. A tax authority that has issued a decision in the first instance confirms its expiry, if:

- 1) it has become irrelevant;
- 2) it has been issued on the condition that the party performs a specified condition, and this condition has not been performed by the party;
- 3) the party has not performed the conditions provided for in the decision or in the provisions of the tax law that entitle it to benefit from tax relief;
- 4) the party has not performed the conditions specified in the provisions of tax law entitling it to benefit from lump-sum tax;
- 5) (repealed)

§ 2. The tax authority shall ascertain the expiry of the decision in the form of a decision.

§ 3. In the cases referred to in § 1, items 3 and 4, the decision confirming the expiry of the decision takes legal effect from the day of delivering the decision confirming the expiry.

Art. 259. Decision on paying by instalments.

§ 1. If the party has not met the deadline for paying deferred tax or tax arrears or any tax instalments into which the tax or tax arrears were spread, it will lead, by the force of law, to the expiry of a decision on:

- 1) deferring the payment deadline for tax or tax arrears with default interest - in full;
- 2) spreading the tax or tax arrears into instalments - in the part concerning the instalment not paid by the payment deadline.

§ 2. The provisions of § 1 shall apply accordingly to receivables from tax remitters or tax collectors that have been deferred or spread into instalments.

Rozdział 21. Liability for Damages.

Art. 260. Reference to civil law provisions. The provisions of the civil law shall apply to liability for damages.

Art. 261 (repealed)

Rozdział 22. Penalties for a Breach of Order.

Art. 262. Activities subject to a penalty.

§ 1. The party, the party's attorney, a witness or an expert who, despite the correct summons by the tax authority:

- 1) has not appeared personally without justified reason, in spite of being obliged to appear; or
- 2) groundlessly refused to provide explanations, testify, issue an opinion, present subject to inspection or take part in another activity, or
- 3) without the authority's permission, left the place of performing the activity before it is ended, may be fined up to 2,600 PLN for a breach of order.

§ 2. The provision of § 1 shall apply accordingly to a person that accepted the appointment as an expert.

§ 3. The provision of § 1 shall also apply to:

- 1) third parties who groundlessly refuse to present the object of inspection;
- 2) participants of a hearing who, by their inappropriate behaviour, hinder the hearing.

§ 4. The fine for a breach of order referred to in § 1 shall not apply to the examination of the party in accordance with the procedure set out in Article 199.

§ 5. The fine for a breach of order shall be imposed in a ruling, which may be complained against.

§ 5a. The fine for a breach of order must be paid within seven days from the day of delivery of the ruling referred to in § 5.

§ 6. At the punished person's application, submitted within seven days from the day of delivering a ruling imposing the fine for a breach of order, the tax authority that has imposed a fine for a breach of order may find that the non-appearance or non-performance of other duties referred to in § 1, to be justified and may reverse the

ruling imposing the fine.

Art. 262a. The amount of the fine.

§ 1. The amount referred to in Article 262 § 1, shall be increased each year in accordance with to the consumer price index in the first two quarters of the particular year in relation to the same period of the previous year - if this index is negative, the amount will not be changed.

§ 2. The minister responsible for public finances, in conjunction with the Head of the Central Statistical Office, will announce in the Journal of Laws of the Republic of Poland „*Monitor Polski*”, by 15 August of each year, the amount referred to in § 1, rounding it down to the nearest hundred PLN (ignoring tens of PLN).

Art. 263. Procedure for imposing a fine.

§ 1. The tax authority conducting the proceedings shall decide to impose a fine for a breach of order, and on its reversal.

§ 2. A ruling on a refusal to reverse a fine may be complained against.

§ 3. Imposing a fine for a breach of order shall not exclude the possibility of applying coercive measures against an unwilling witness or expert provided for in specified provisions.

§ 4. The provisions of Article 68 § 1 and Article 70 shall apply accordingly to fines for a breach of order.

Rozdział 23. The Costs of Proceedings.

Art. 264. General rule. Unless further provisions provide otherwise, the cost of proceedings before the tax authorities shall be incurred by the State Treasury, voivodship, county or district.

Art. 265. Definition of the costs of proceedings.

§ 1. The costs of proceedings shall include:

1) travel expenses and other receivables of witnesses, experts and translators, in accordance with the provisions on the remuneration of witnesses and experts in judicial proceedings;

2) the costs referred to in § 1, relating to the personal appearance of the party, if the proceedings has been initiated *ex officio* or the party was mistakenly summoned to appear;

3) the remuneration of experts and translators;

4) the costs of inspections;

5) the costs of delivering official letters.

§ 2. The tax authority may also include in the costs of proceedings other expenses directly related to resolving the case.

Art. 266. Procedure for the return of costs.

§ 1. The tax authority shall, upon request, refund the costs of the proceedings referred to in Article 265 § 1 items 1 and 2.

§ 2. A request for a refund of travel costs incurred should be submitted to the tax authority conducting the proceedings, before issuing the decision on merits, or the claim may be lost.

Art. 267. Party charged with costs.

§ 1. The party shall be charged with costs:

1) incurred in its interest, or at its request, but not arising from a statutory obligation of the authorities conducting the proceedings; la) of the appearance of participants of the proceedings at a hearing that did not take place as a result of an unjustified appearance of the party who submitted an application to conduct a hearing;

2) (*repealed*)

3) preparing copies or excerpts referred to in Article 178;

4) provided for in separate provisions;

5) that resulted from its fault, in particular the costs:

a) referred to in Article 268,

b) resulting from concealing or failing to submit evidence by the prescribed deadline, or

c) resulting from a provided false explanations or false testimony.

§ 2. In justified cases, the tax authority may require the party to make an advance payment in a specified amount to cover the costs of the proceedings.

Art. 268. Additional costs.

§ 1. A person who, by not performing the obligations referred to in Article 262 § 1, has caused additional costs of the proceedings, may be charged with these costs.

§ 2. If the additional costs have been caused by several people, they shall be liable jointly and severally.

§ 3. The additional costs of the proceedings shall be charged in a ruling, which may be complained against.

§ 4. The provisions of § 3 shall not apply if reversing a fine for a breach of order.

Art. 269. Ruling on the costs of the party. The tax authority shall issue a ruling determining the costs of proceedings that should be borne by the party, as well as the deadline and manner of payment.

Art. 270. Amortisation of the costs.

§ 1. At the request of the obliged person, in cases justified by its important interest or if in the public interest, the tax authority, may spread the costs of the proceedings into instalments or partially or fully redeem it.

§ 2. The provisions of Article 67b § 1 items 1 and 2 shall apply accordingly.

Art. 270a. Ruling. In matters concerning the costs of the proceedings, a ruling shall be issued, which may be complained against.

Art. 271. Procedure of enforcement.

§ 1. The costs of proceedings shall be collected pursuant to the regulations on administration enforcement proceedings.

§ 2. The provisions of Article 68 § 1 and Article 70 shall apply accordingly to the costs of proceedings.

Dział V. Inspection Activities.

Art. 272. Purpose of inspection activities. The tax authorities of the first instance, subject to Article 272a, shall carry out inspection activities in order to:

- 1) verify the promptness of:
 - a) submitting tax returns;
 - b) paying declared taxes, including taxes collected by tax remitters or tax collectors;
- 2) ascertain the formal correctness of the documents referred to in item 1;
- 3) establish the facts of the case as far as necessary to ascertain that they conform to the documents presented.

Art. 272a. Inspection activities. The minister responsible for public finances, or the tax authority authorised by the minister responsible for public finances, within the scope of exchange of information on the tax on goods and services with member states of the European Union, shall perform inspection activities concerning the documents submitted to this authority.

Art. 273 (*repealed*)

Art. 274. Correction of tax returns.

§ 1. If it is discovered that the tax return includes miscalculations or other obvious mistakes, or it was filled in contrary to the required conditions, the tax authority, depending on the character and scope of errors, will:

- 1) correct the tax return by making suitable corrections or supplements, if changing the amount of the tax obligation, overpayment, tax refund or loss as a result of this correction does not exceed the amount of 1,000 PLN;
- 2) demand that the person submitting the declaration corrects it and provides necessary explanations, and will indicate the reasons for which information included in the tax return raise concerns.

§ 2. The tax authority:

- 1) certifies the copy of corrected tax return referred to in § 1 item 1;
- 2) delivers to a taxpayer a certified copy of the corrected tax return with information on the change in the amount of the tax obligation, overpayment, tax refund or loss, correction of tax return connected with the correction of the declaration, or information on the absence of such changes.

§ 3. The taxpayer is entitled to lodge an objection against the correction referred to in § 1 item 1 to the authority that corrects the tax return, within 14 days from the day of delivering a certified copy of the tax return. Lodging an objection shall cancel the correction.

§ 4. If no objection is lodged by the deadline, the correction of the declaration referred to in § 1 item 1 will have such legal effects as the correction of the tax return submitted by the taxpayer.

§ 5. The provisions of § 1-4 shall apply accordingly to tax returns submitted by tax remitters or tax collectors, and enclosures to declarations.

Art. 274a. Making explanations.

§ 1. The tax authority may request explanations concerning the reasons for not submitting the tax return, or issue a summons to submit it, if the declaration is not submitted despite such duty.

§ 2. If there are any doubts as to correctness of the submitted tax return, the tax authority is entitled to issue a summons for necessary explanations or for the declaration to be supplemented by the specified deadline, indicating reasons for which the reliability of data included in the declaration raise concern.

Art. 274b. Extension of the deadline.

§ 1. If performing inspection activities as to the legitimacy of the tax refund requires extending the time limit for the tax refund under separate provisions, the tax authority is entitled to extend the time limit until the inspection activities have been completed.

§ 2. The ruling referred to in § 1 may be complained against.

Art. 274c. Demand for documents.

§ 1. The tax authority, in connection with carrying out tax proceedings or a tax audit, is entitled to demand that the taxpayer's business partners pursuing economic activity submit documents that are subject to the control of the taxpayer, in order to verify its correctness and reliability. A report of these activities shall be prepared.

§ 2. If the place of residence, registered office or place of activity of a inspected party's business partner are situated beyond the controlling authority's area of operation, the activities referred to in § 1 may be performed on this authority's application, by the locally competent authority.

Art. 275. Obligation to inform.

§ 1. If from the submitted tax return it follows that the taxpayer used tax relief, the tax authority may request documents or photocopies of documents that the taxpayer is required by law to hold for a specified length of time.

§ 2. At the request of the head of a tax office or the head of a customs office, banks are obliged to prepare and transfer information on events entitling the taxpayer to tax relief, if they were indicated in a tax return submitted by the taxpayer.

§ 3. The provision of § 2 shall also apply to insurance institutions and investment funds in terms of individual pension accounts, brokerage offices, banks pursuing brokerage activities, investment fund companies and co-operative savings and credit unions.

§ 4. The provision of Article 82 § 4 shall apply accordingly to the information referred to in § 2 and 3.

Art. 276. Examination of premises.

§ 1. The tax authority, with the taxpayer's consent, is entitled to examine all or part of residential premises, if it is necessary to verify that the facts of the case conform to the data resulting from the tax return submitted by the taxpayer, and from other documents that confirm expenses for residential purposes.

§ 2. In the situation referred to in § 1, a tax authority employee, in consultation with the taxpayer, shall determine the date of the inspection. An annotation, signed by the taxpayer, on the determination of the inspection date shall be placed in the case files.

§ 3. If the residential premises are not made available on the determined date, the tax authority is entitled to appoint a new date for the inspection.

§ 4. A tax authority employee shall prepare an inspection report, which shall be attached to case files.

§ 5. The provisions of § 1-4 shall apply accordingly to investment relief that the taxpayer uses.

Art. 277. Generalisation. The provisions of Articles 274-276 shall apply accordingly in the case of submitting a tax return or an application for a tax refund.

Art. 278. Exclusion of the head of the tax office. If the tax authority is excluded from inspection activities, the tax return is submitted to the excluded tax authority. This authority transfers the tax return to the authority appointed to perform inspection activities, and shall retain a copy.

Art. 278a (repealed)

Art. 279 (repealed)

Art. 280. Reference. In matters not regulated by this Section, the provisions of Article 143, Chapters 1-3, 5, 6, 9, 10, 14, 16 and 23 of Section IV shall apply accordingly.

Dział VI. Tax Audit.

Art. 281. Tax audit.

§ 1. The tax authorities of the first instance, subject to § 3, shall carry out a tax audit of taxpayers, tax remitters or tax controllers, and their legal successors, hereinafter referred to as „controlled parties”.

§ 2. The tax audit is carried out in order to verify whether the controlled parties perform the obligations arising from the provisions of tax law.

§ 3. The minister responsible for public finances shall carry out the tax audit aimed at verifying the application of the minister's approved method of setting a transaction price between related entities.

Art. 281a. Authorised substitute.

§ 1. Taxpayers, tax remitters, tax inspectors and legal successors may, in writing, assign an individual who shall be authorised to represent them within the scope of a tax audit, and notify that person to the head of the tax office, the village administrator, the mayor of a town (president of a city) who is competent in respect of income tax. If more than one person is authorised, the provisions of Article 145 § 3 shall apply accordingly.

§ 2. Unless the authorisation provides otherwise, it shall be deemed that an authorised person is entitled to act within the scope of receiving a notification of an intention to initiate a tax audit, giving the consent referred to in Article 282b § 3, receiving the authorisation to conduct a tax audit, carrying out the tax audit, providing explanations or objections to the report, and all audit activities.

§ 3. The provisions of this chapter referring to a controlled party also apply to the authorised person, except for Article 282c § 1 item 2 and Article 285a § 3.

Art. 282. Initiative. A tax audit is undertaken *ex officio*.

Art. 282a. Repeated initiation of inspection. Where a case has been resolved by a tax authority's final decision, a tax audit may not be initiated again, subject to § 2.

§ 2. The provision of § 1 shall not apply if the tax inspection is necessary to conduct proceedings:

1) in the matter of declaring a decision invalid or expired, or reversing or amending the final decision, or resuming proceedings in cases resolved with a final decision;

2) in connection with reversing or declaring a decision invalid by an administrative court.

Art. 282b. Notice.

§ 1. The tax authorities shall notify a controlled party of the intention to initiate a tax audit, subject to Article 282c.

§ 2. The tax audit shall be initiated after at least seven days, but no later than 30 days from the date of delivery of a notification of the intention to initiate a tax audit. If the tax audit is not initiated within 30 days from the delivery of notification, the initiation of tax audit will require another notification.

§ 3. The initiation of a tax audit earlier than seven days after receipt of the notification requires the approval of the controlled party.

§ 4. The notification of the intention to initiate a tax audit shall include:

- 1) the designation of the authority;
- 2) the date and place of issue;
- 3) the indication of the controlled party;
- 4) the indication of scope of the control;
- 5) the instruction on the right to submit a tax return correction;
- 6) the signature of the person authorised to notify.

§ 5. The minister responsible for public finances shall issue a regulation determining the template for the notification of an intention to initiate a tax audit, taking into account the elements of the notification specified in § 4 and the possibility of consenting to initiate an audit earlier than seven days after the delivery of the notification.

Art. 282c. Tax audit without prior notice.

§ 1. There shall be no notification of the intention to initiate a tax audit if:

1) the audit:

- a) concerns grounds for the refund of the difference between a tax refund and the refund of input tax pursuant to the provisions of the tax on goods and services,
- b) is initiated at the request of the authority conducting the preparatory proceedings in matter of a crime or a revenue offence,
- c) concerns the taxation of income unmatched by the disclosed sources or derived from undisclosed sources,
- d) concerns economic activity not reported for taxation,
- e) is to be initiated on the basis of information received in accordance with the provisions on counteracting money laundering and financing terrorism,
- f) is initiated pursuant to the procedure referred to in Article 284a § 1,
- g) is of an immediate nature and concerns keeping a record of the turnover with the help of a cash register, using a cash register or from the physical inventory;

- 2) the tax authority has information that the controlled party:
- a) has been finally and validly convicted in the Republic of Poland for committing a revenue offence, an offence against the economic turnover, or an offence provided for in the Accounting Act of 29 September 1994 (J.L. of 2002, No. 76 item 694, as amended) or the offence of hindering an audit, in the case of a legal person this condition refers to any member of the management board or manager, and in the case of partnerships without legal personality - to each partner,
 - b) is obliged under administration enforcement proceedings,
 - c) does not have a residence or a registered office, or if the delivery of the letters to the given addresses was difficult or was hindered.

§ 2. The provisions of § 1 item 1 shall also apply if it is necessary to extend the scope of the inspection to other settlement periods due to irregularities found as a result of audit activities already performed.

§ 3. After initiating the audit a controlled party shall be informed of the reason for the absence of notification of the intention to initiate the audit.

Art. 283. Authorisation to carry out an audit.

§ 1. A tax audit shall be carried out on the basis of a written personal authorisation given by:

- 1) the head of a tax office, or a person substituting for the head of a tax office - to employees of that office;
- 1a) the head of a customs office, or a person substituting for the head of a customs office - to customs officers and employees of that office;
- 2) the village administrator, the mayor of a town (president of a city), starost, or voivodship marshal, or a person substituting for the village administrator, the mayor of a town (president of a city), starost, or voivodship marshal - to employees of municipalities (cities), the starost or voivodship marshal office;
- 3) the minister responsible for public finances, or a person substituting for the minister responsible for public finances - to employees of its office supporting the minister.

§ 2. An authorisation to conduct a tax audit shall include:

- 1) the designation of authority, the date and place of issue; la) an indication of the legal basis;
- 2) the name and surname of controller (controllers);
- 3) controller's (controllers') identity card number(s);
- 4) the designation of the controlled party;
- 5) an indication of the scope of audit;
- 6) the date of initiation and the expected date of completion of the audit;
- 7) the signature of the person giving the authorisation, and an indication of the person's position or function;
- 8) instructions on the rights and duties of the controlled party resulting from the provisions of this chapter.

§ 3. The minister responsible for public finances will issue a regulation determining the template for the personal authorisation to conduct a tax audit, taking into account the elements of the authorisation specified in § 2.

§ 4. An authorisation not meeting the requirements referred to in § 2 shall not constitute grounds for conducting the audit.

§ 5. The scope of audit may not extend beyond the scope indicated in the authorisation.

Art. 284. Delivery of the authorisation.

§ 1. The tax audit shall be initiated by presenting the controlled party or the person referred to in Article 281a with the authorisation to conduct it, and presenting the identity card, subject to § 4 and Article 284a § 1. The party is required to indicate a person assigned to represent it if the party is absent during the audit, if no-one was assigned pursuant to Article 281a.

§ 2. If the controlled party is a legal person or an organisational unit without legal personality, the authorisation shall be delivered and the official identity card shall be presented to a member of the management board, shareholder, another person authorised to represent the controlled party or to conduct business, or the person assigned pursuant to Article 281a.

§ 3. If the controlled party, or the person referred to in § 2 or in Article 281a, is absent, the controller will summon the controlled party, or the person assigned pursuant to Article 281a, to appear at the place where the audit is to be performed, on the day following the lapse of seven days from the delivery of the summons.

§ 4. If the controlled party, or the person referred to in Article 281a, does not appear by the deadline referred to in § 3, the tax audit will be initiated on day this deadline lapses. The authorisation to carry out the audit will be delivered to the controlled party, or the person referred to in Article 281a, when they appear at the place of the audit.

§ 5. If, because of the absence of the controlled party, the person referred to in Article 281a or in Article 284 § 1 second sentence and § 2, the audit activities cannot be conducted, in particular if access to documents related to the subject of the audit is not granted, the audit will be suspended until these activities can be carried out.

§ 5a. The provisions of § 5 shall not apply to the controlled entity.

§ 6. The period of the suspension referred to in § 5 is not included in the audit duration time.

Art. 284a. Immediate initiation of an audit.

§ 1. A tax audit may be initiated after showing a professional identity card to the controlled party or the person referred to in Article 281a, or the person listed in Article 284 § 2, when the audit activities are necessary to counteract a revenue offence or revenue petty offence or to secure evidence of such an offence.

§ 1a. In the absence of the controlled party or the person referred to in Article 281a, or the person referred to in Article 284 § 2, a tax audit may be initiated after showing an identity card to an employee of the controlled party, who may be considered a person referred to in Article 97 of the Civil Code of 23 April 1964 (J.L. No. 16, item 93, as amended), or in the presence of a witness called for that purpose, who shall be a public officer, but not an employee of the authority conducting the audit.

§ 2. In the cases referred to in § 1 and 1a, the controlled party or the person referred to in Article 281a or the person listed in Article 284 § 2, should receive the authorisation to conduct an audit without unnecessary delay, and no later than three days after initiating the audit.

§ 3. Documents obtained from audit activities performed in breach of the obligation referred to in § 2, shall not constitute evidence in tax proceedings.

§ 4. *(repealed)*

§ 5. The tax authority is entitled to suspend the tax audit, if, within 30 days from the day of its initiation, the controlled party's identification data has not been established.

§ 5a. A suspended tax audit may be resumed at any time, if the inspected party's identification data has been established.

§ 5b. A suspended tax audit shall be discontinued if the data identifying the controlled party has not been established within five years from the day on which a ruling on suspension is issued.

§ 5c. The provisions of § 5-5b shall not apply to a the controlled entity.

§ 6. The ruling on the suspension of the tax audit and a ruling on discontinuing a tax audit shall be kept in the case file.

Art. 284b. Completion of the audit.

§ 1. The tax audit will be completed without unnecessary delay, but no later than the deadline specified in the authorisation referred to in Article 283.

§ 2. The controller shall be obliged to notify the controlled party of a failure to complete an audit by the deadline specified in the authorisation referred to in Article 283, a controller is required to notify the controlled person, in writing, giving the reasons for the extension of the deadline in which to complete the audit and indicating a new deadline for its completion.

§ 3. Documents concerning the audit activities performed after the lapse of this deadline shall not constitute evidence in tax proceedings, unless a new deadline for the completion of the audit has been specified.

Art. 285. Presence of the controlled party.

§ 1. The audit activities shall be performed in the presence of the controlled party or a person designated by it, unless the controlled party renounces the right to participate in the audit activities. If the controlled party is a person or unit referred to in Article 284 § 2, the audit activities shall be performed in the presence of the authorised persons.

§ 2. A declaration on renouncing the right to participate in the audit activities shall be submitted in writing. In the event of a refusal to submit the declaration, the controller shall annotate it and enclose it to the minutes.

§ 3. If, in the course of the audit, the controlled party or persons representing it are absent, and there was no designation of an authorised person pursuant to the Article 281a or Article 284 § 1 second sentence, the audit activities will be performed in the presence of another employee of the controlled party, who will be deemed a person referred to in Article 97 of the Civil Code 23 April 1964, or in the presence of a witness called for that purpose who shall be a public officer, but not an employee of the authority conducting the audit.

Art. 285a. Place of conducting audit activities.

§ 1. The audit activities shall be conducted in controlled party's registered office, in another location for keeping the documentation, and in places connected with the pursued activity and within its business hours, and if business hours are shortened during the audit - audit activities may be conducted for eight hours a day. If the tax books are kept or stored outside the controlled party's registered office, the controlled party, at the controller's request, is obliged to provide access to the tax books in the registered office or where they are kept or stored, if providing access to them may significantly hinder the current activities of the controlled party.

§ 2. The provisions of § 1 shall also apply when the controlled party conducts business in residential premises.

§ 3. If it is justifiably presumed that an controlled party who is an individual has not disclosed all the turnover or income relevant for the determination or establishment of the amount of a tax obligation, the controller may require the controlled party to make a statement of his or her financial position as of a specified date. This statement shall be submitted under the threat of criminal responsibility for false testimony. The controller, while requesting to make a statement shall inform the controlled party about criminal responsibility for false testimony when requesting the statement.

§ 4. The provisions of § 3 shall apply accordingly to individuals who are partners in an controlled entity without legal personality.

Art. 285b. Audit activities in the registered office of the tax authority. With the controlled party's consent, the tax audit or particular audit activities, may be conducted at the registered office of the tax authority, if it may help the audit, or the controlled party has waived its participation in the audit activities.

Art. 286. Rights of the controller.

§ 1. Under the authorisation controllers have the right, in particular, to:

- 1) enter property, buildings, flats, rooms or other premises of the controlled party;
- 2) enter residential premises in the event referred to in Article 276 § 1;
- 3) require the presentation of property subject to an audit and to carry out an inspection;
- 4) require that files, books and all types of documents related to the subject of the audit be made available, and to make excerpts, copies, extracts, notes thereof, or printouts and documented collection of data in electronic form;
- 5) collect other necessary materials within the scope of the audit;
- 6) secure the evidence collected;
- 7) verify identity documents for the purpose of establishing the identity of individuals, if necessary for the audit;
- 8) ask to carry out a physical inventory;
- 9) examine witnesses, the controlled party, and other individuals listed in Article 287 § 4;
- 10) consult experts.

§ 2. The controller may require that the following be handed over for the duration of the audit, with confirmation of receipt:

- 1) sample goods;
- 2) files, books and documents referred to in § 1 item 4:
 - a) if there is any reasonable suspicion that they are unreliable, or
 - b) if the taxpayer does not provide the controllers with conditions enabling the verification of such documentation, in particular, does not provide the controllers with a separate room and place for storing documents.

§ 3. Reviewing the preparatory and court proceedings files, court files, and documents including information constituting a state, official or professional secret and the making duplicates and notes thereof, shall be carried out in accordance with relevant provisions.

Art. 286a. Help or assistance.

§ 1. In justified cases, the controller is entitled to summon, including orally in urgent cases, the assistance of the police border guards or city guards (municipal), if there is any resistance preventing or hindering the performance of the audit activities, and is entitled to ask for their assistance if there is a reasonable suspicion that there will be

resistance. If resistance is offered by a soldier in active military service, the controller will call for an escort from the appropriate military authority, unless a delay may prevent the audit activities and there are no military authorities in the place.

§ 2. The authorities listed in § 1 may not refuse to grant help or escort.

§ 3. The minister responsible for internal affairs, in conjunction with the minister of national defence, will issue a regulation determining the detailed scope of duties of the authorities providing help or assisting in the performance of audit activities, the procedure for providing help or assistance, the manner of documenting such help or assistance and the local competence of authorities to provide help or assistance.

§ 4. While issuing the regulation referred to in § 3, the diversity of the responsibilities of the authorities providing help, depending on the form of resistance, shall be taken into account in particular.

Art. 287. Duties of the controlled party.

§ 1. The controlled party, a person authorised to represent the controlled party or to conduct his or her affairs, employees and anyone co-operating with the controlled party are obliged to enable activities referred to in Article 286 to be carried out, in particular:

1) enable, free of charge, filming, photographing, sound recording and recording the facts of the case by other data carriers if the film, photography, recording, or information stored on another carriers may constitute evidence or contribute to the recording of evidence in the matter being the object of audit;

2) provide, at the request of the controller, a Polish translation of documents prepared in a foreign language concerning the matters being the object of audit.

§ 2. The controlled party is obliged to perform activities referred to in § 1 item 2 free of charge.

§ 3. The controlled party shall be obliged, by the specific deadline, to provide any explanation of the controlled object, to provide the controlled party with the requested documents and with working conditions, including, if it is possible, providing a separate room and a place to store documents.

§ 4. Persons authorised to represent the controlled party or to conduct its affairs, employees and co-operating persons are obliged to provide explanations concerning the object of the audit, within the scope resulting from the performed activities or tasks.

§ 5. Controllers are entitled to enter the controlled unit's area and move around the area on the basis of a professional identity card, without the need to obtain a pass and without being subject to a body search provided for in internal provisions of this unit, though they are subject to the provisions on occupational safety and health in force in the controlled entity.

Art. 288. Visual inspection of the premises.

§ 1. The controller is entitled to enter the area, a building or residential premises of the controlled party for the purpose of:

1) carrying out a visual inspection if:

a) the premises have been indicated as a place of economic activity or as a business office of the inspected party,

b) it is necessary to establish or determine the amount of a tax obligation or the taxable base,

c) it is necessary to verify the fact of incurring expenses for housing purposes entitling tax relief;

2) making a visual inspection and search of residential premises, other premises or things, if information has been obtained on conducting any business not reported for taxation, or if there are stored subjects, tax books, files or other documents that may influence the determination of the existence of tax liability or to determine the amount of tax obligation.

§ 2. The activities listed in § 1 item 2 shall be conducted by authorised employees of the tax authority after obtaining, at the application of the tax authority, the consent of the district public prosecutor. A ruling on granting the consent issued by prosecutor shall be presented to the controlled party before initiating these actions. The provisions of the Code of Criminal Proceedings on searches relating to the Police also apply to controllers. A report of these activities shall be prepared, which shall require the approval of the prosecutor. If approval is refused the report materials and information collected in the course of activities will not constitute evidence in tax proceedings.

§ 3. The activities listed in § 1 item 1 shall be performed upon the consent of the controlled party. If no consent is given, the provisions of § 2 shall apply accordingly.

§ 4. If real properties, or part of them, or items are in the possession of third parties, these persons are obliged, at the request of tax authority, to make them available for the purpose of a search or inspection. The provisions of § 2 and 3 shall apply accordingly.

Art. 288a (repealed)

Art. 289. Informing the controlled party.

§ 1. The controlled party, the person representing it or a person referred to in Article 281a or Article 284 § 1, second sentence, shall be notified of the place and time of hearing witness testimony and evidence from an expert opinion at least three days in advance, and of evidence from the inspection no later than directly before initiating such activities.

§ 2. The provision of § 1 shall not apply if the controlled party, a person representing it or assigned in accordance with Article 281a or in accordance with Article 284 § 1, second sentence are absent, and the circumstances of the case justify collecting the evidence immediately.

Art. 290. Content of the report.

§ 1. The course of an audit shall be recorded by the controller in a report. The facts may be also recorded by using audiovisual recording devices or on an IT data carrier.

§ 2. The inspection report shall include in particular:

1) an indication of the controlled party;

2) an indication of the controllers;

3) a specification of the subject and scope of the audit;

4) a specification of place and time of the audit;

5) a description of the facts of the case;

6) documentation concerning the evidence collected;

6a) a legal assessment of the matters under audit;

7) instructions on the right to raise objections or explanations, and the right to submit a correction of the tax return;

8) instructions on the controlled party's duty to notify the tax authorities of any change of the controlled party's address made within six months from the day of completing the tax audit, if in the course of a tax audit any irregularities were revealed, and on the consequences of a failure to perform this duty.

§ 3. *(repealed)*

§ 4. A report on the activities referred to in Article 289 § 1 is attached to the minutes of the audit report.

§ 5. The audit report may also include findings relating to the examination of the books to the extent provided for in Article 193. In this case, no separate report on the examination of the books referred to in Article 193 § 6 is prepared.

§ 6. The minutes shall be prepared in two identical counterparts. One counterpart of the report shall be delivered to the controlled party by the controller.

Art. 290a. Delegation. The minister responsible for public finances, in conjunction with the Minister of Justice and the minister responsible for information technology will issue a regulation determining the manner of protecting, reproducing and using evidence recorded by audiovisual recording devices or IT data carriers, with regard to the types of external factors that may damage or cause the destruction of the evidence, the presence of a representative a controlling body's representative at time of being reproduced, the form of marking the evidence and registering the reproduction and its use as evidence.

Art. 291. Objections.

§ 1. If the controlled party disagrees with the findings of the report, it may, within 14 days from the day of receiving the report, submit objections or provide explanations, submitting at the same time appropriate motions for evidence.

§ 2. The controller shall be obliged to consider objections referred to in § 1 and, within 14 days of receiving such objections, inform the controlled party of the manner of settling them, indicating, in particular, objections that were not upheld, with the factual and legal grounds.

§ 3. If no explanations or objections are submitted by the deadline referred to in § 1, it shall be deemed that the controlled party does not question the findings of the audit.

§ 4. The audit shall be completed upon the delivery of the minutes of the audit.

Art. 291a. Agreements concluded by the minister.

§ 1. The minister responsible for public finances, in order to improve cooperation and increase the effectiveness of audits, is entitled to conclude bilateral or multilateral agreements with foreign authorities on the coordination of the time of initiation and the scope of the audit.

§ 2. The agreements referred to in § 1 may provide for the presence of the foreign authority's representatives during audit activities.

Art. 291b. Obligation to notify the authority of a change of address. If irregularities are revealed in the course of a tax audit, the controlled party is obliged to notify the tax authority of any change of its address made within six months from the completion of the tax audit. In the event of a failure to perform this duty, a ruling on the initiation of tax proceedings shall be deemed to have been delivered to the address where the report was delivered.

Art. 291c. Reference. The provisions of Chapter 5, of the Act on the Freedom of Economic Activity of 2 July 2004 shall apply accordingly to the audit of economic activity of a taxpayer being a business entity.

Art. 292. Reference. In matters not regulated by this chapter, the provisions of Article 102 § 2 and 3, Articles 135-138, Article 139 § 4, Article 140 § 2, Article 141 and Article 142 and the provisions of Chapters 1, 2, 5, 6, 9-12, 14, 16, 22 and 23 of Section IV shall apply accordingly.

Dział VII. Fiscal Secrecy.

Art. 293. Scope of fiscal secrecy.

§ 1. Personal data included in a tax return, and other documents submitted by taxpayers, tax remitters or tax collectors, shall be subject to fiscal secrecy.

§ 2. The provision of § 1 shall also apply to data included in:

- 1) tax information transferred to the tax authorities by entities other than those referred to in § 1;
- 2) case files that record inspection activities;
- 3) case files of tax proceedings, tax audit as well as revenue offences and revenue petty offences proceedings;
- 4) the tax authority's accounting documentation;
- 5) information obtained by the tax authorities from banks and sources other than those referred to in § 1 or in item 1;
- 6) information obtained in the course of the proceedings on concluding the agreements referred to in Section Ha.

Art. 294. Entities obliged to observe secrecy.

§ 1. Fiscal secrecy shall be observed by:

- 1) employees of a tax office and a tax chamber;
- 1a) customs officers, and employees of a customs office and a customs chamber;
- 2) village administrator, mayor of the town (president of the city), district governor, voivodship marshal and employees of their supporting offices;
- 3) members of the local government board of appeals and employees of its offices;
- 4) the minister responsible for public finances and employees of the Ministry of Finance;
- 5) trainees, anyone taking part in occupational or student practice in supporting office of the minister responsible for public finances or other tax authorities;
- 6) representatives of a foreign authority present in the course of the audit activities due to performing simultaneous audits.

§ 2. The persons referred to in § 1 shall make a following written promise:

I promise to maintain fiscal secrecy. I also declare that I am familiar with the provisions regarding criminal responsibility for revealing a fiscal secret

§ 3. Fiscal secrecy must not be revealed also after the end of employment, training or practice.

§ 4. Other persons with access to information that is covered by fiscal secrecy must also observe fiscal secrecy, unless permitted to reveal it by a specific provision of law.

§ 5. The provision of § 4 shall not apply to anyone who is the subject of the information covered by fiscal secrecy.

Art. 295. Access to information. In the course of the tax proceedings, access to information from a bank or another financial institution, and access to information from a bank or another financial institution with its registered office in a member state of the European Union shall be available to:

1) customs officers or an employee settling the case, their direct supervisor, the head of the tax office and the head of the customs office;

2) authorities and employees of the authorities referred to in Article 305c, who are responsible in matters of applying for and providing information.

Art. 295a. Entities with access to the information. In the course of the proceedings on terms of concluding the agreements referred to in Section IIa, access to information transferred by business entities in these proceedings is available to an employee settling the case, his or her direct supervisor and the minister responsible for public finances.

Art. 296. Keeping the case files.

§ 1. Case files including information:

1) from banks or co-operative saving-credit unions, excluding the information referred to in Article 82§ 2, and another financial institutions,

2) referred to in Article 305b, obtained from member states of the European Union, originating from banks and another financial institutions,

3) obtained in proceedings on concluding the agreements referred to in Section IIa

- shall be kept in premises secured in accordance with the provisions on the protection of classified information.

§ 2. The information referred to in § 1, after it has been used, shall be excluded from the case files and kept locked away, or in a safe. An annotation on excluding information shall be included in the case files.

§ 3. The information referred to in § 1 shall be re-included into the case files only in events referred to in Articles 297 and 297a.

Art. 297. Access to banking information.

§ 1. The heads of tax offices and heads of customs offices shall provide access to case files and the case files including information referred to in Article 182, exclusively to:

1) the minister responsible for public finances, the director of a tax chamber or the director of a customs chamber - in the course of the tax proceedings, proceedings on revenue offences, proceedings on revenue petty offences or audit proceedings performed in a tax office or a customs office;

2) other heads of tax offices or of customs offices or authorities of tax audit - in connection with initiated tax proceedings, proceedings on revenue offences or revenue petty offences or tax audit;

2a) the General Inspector of Financial Information - on the basis of information obtained in accordance with provisions on counteracting money laundering and on financing terrorism;

3) the courts or the prosecutor - in connections with on-going proceedings;

4) the Commissioner for Civil Rights Protection - due to his or her participation in the proceedings before the administrative court;

5) the Prosecutor General - at the request of the relevant prosecutor:

a) in cases referred to in Section IV of the Code of Administrative Procedure,

b) in relation to the on-going proceedings before the administrative court;

6) (*repealed*)

7) state security services, the Intelligence Agency, Central Anticorruption Bureau, the Police, the Military Police, the Border Guard, the Penitentiary Service and their officers or soldiers possessing a written authorisation to the extent necessary to conduct inspection proceedings on the basis of provisions of the protection of classified information,

8) the Central Anticorruption Bureau to the extent necessary to carry out inspection activities referred to in Chapter 4 of the Act on the Central Anticorruption Bureau of 9 June 2006 (J.L. No. 104, item 708).

§ 2. In the cases referred to in § 1 items 1 or 2, Article 295 shall apply accordingly.

§ 3. In the cases referred to in § 1, the case files are marked and transferred in the manner provided for in Article 82 § 4.

§ 4. The heads of tax offices and the heads of customs offices shall provide the Supreme Chamber of Control, in connection with on-going proceedings, access to the case files referred to in § 1, after excluding the information referred to in Article 182, unless this information has already been transferred to the Supreme Chamber of Control in accordance with separate provisions.

§ 5. The heads of tax offices shall provide the National Electoral Commission, in connection with the audit of the electoral committee's report, information referred to in Article 295 section 1 or report referred to in Article 38 of the Act on Political Parties of 27 June 1997 (J.L. No. 79, item 857 as amended), access to case files referred to in § 1.

Art. 297a. Access to information acquired from European Union Member States.

§ 1. The information referred to in Article 305b obtained from the member states of the European Union, or the case files including such information, shall be made accessible exclusively to the authorities referred to in Article 297, according to the rules provided for in this provision, if the proceedings on-going before the authority or activities performed by this authority are connected with correctly determining the taxable base and the amount of a tax obligation, or assessing other receivables for which enforcement is possible pursuant to the provisions of enforcement administrative procedure, at the request of a foreign country.

§ 2. Providing access to information for purposes other than those referred to in § 1 requires the consent of the competent authority of the member state of the European Union from which the information was received.

Art. 297b. Access to the case files. Case files concerning the agreements referred to in Section IIa, or information resulting from these case files, shall be made accessible only to the authorities referred to in Article 297 § 1 item 1

and items 2a-7, and in accordance with the rules provided for in this provision.

Art. 298. Access to other information. The tax authorities shall provide access to the case files that do not include the information referred to in Article 182 to:

- 1) the minister responsible for public finances;
- 2) other tax authorities;
- 3) tax inspection authorities;
- 3a) employees of the revenue intelligence;
- 4) the Supreme Chamber of Control - within the scope and in accordance with rules referred to in the provisions on the Supreme Chamber of Control;
- 5) the court, prosecutor and police officers or officers of the Internal Security Agency authorised in writing by the prosecutor - in connection with on-going proceedings;
- 5a) state security services, the Intelligence Agency, the Police, the Military Police, the Border Guard, the Penitentiary Service and their officers or soldiers with written authorisation, to the extent necessary to conduct inspection proceedings in accordance with the provisions of the protection of classified information;
- 5b) the head of the Central Anticorruption Bureau, if it is necessary to effectively prevent the commission of crimes or to detect them, establish their perpetrators and collect the evidence;
- 6) experts appointed during the tax proceedings or a tax inspection - to the extent determined by the tax authority;
- 6a) the voivod and the head of the Office for Foreigners - within the scope of conducted proceedings regarding the legalisation of foreigners' residencies in the Republic of Poland;
- 7) other authorities - in cases and in accordance with the rules provided for in separate acts and ratified treaties the Republic of Poland is a party to.

Art. 299. Transfer of information to other authorities.

§ 1. The tax authorities shall provide access to the information included in tax case files, except for the information referred to in Article 182, to the authorities and persons listed in Article 298.

§ 2. The tax authorities shall provide access to the information included in tax case files within the scope and in accordance with the rules provided for in separate acts and ratified treaties that the Republic of Poland is a party to.

§ 3. The information referred to in § 1 shall also be made accessible to:

- 1) *(repealed)*
- 2) *(repealed)*
- 3) county and province labour offices;
- 4) organisational units of the Agricultural Social Insurance Fund;
- 5) organisational units of the Social Insurance Institution;
- 6) the minister responsible for internal affairs - for the purposes of performing tasks provided for in the provisions on the acquisition of real property by foreigners;
- 7) the head of National Centre of Criminal Information for performing his or her statutory tasks;
- 8) court bailiffs in connection with on-going enforcement or security proceedings;
- 9) village administrators, mayors of towns, presidents of cities or voivodship marshals within the scope of conducted proceedings for the award of family benefits or cash benefits payable if the enforcement of alimony is ineffective;
- 10) social assistance institutions and county centres of family assistance within the scope of proceedings conducted for granting social aid benefits;
- 11) public statistics services within the scope of tasks resulting from the statistical research programme;
- 12) institutions administering the funds gained from the European Union budget, or non-repayable funds from other foreign sources;
- 13) public benefit organisations, within the scope and in accordance with the rules provided for in tax acts.

§ 4. Information on the bank account numbers owned by the taxpayers may be made accessible to:

- 1) the Social Insurance Institution and the Agricultural Social Insurance Fund;
- 2) enforcement authorities, in connection with on-going enforcement proceedings;
- 3) village administrators, mayors, presidents of cities or voivodship marshals within the scope of granting family benefits or cash benefits payable if the enforcement of alimony is ineffective.

§ 5. *(repealed)*

§ 6. Court bailiffs are obliged to pay a fee to the tax authority's account in order for the information referred to in § 3 item 8 and in § 4 item 2 to be made available, unless separate provisions provide otherwise.

§ 7. The minister responsible for public finances will issue a regulation determining:

- 1) the amount of the fee to be paid to the tax authority's account for making information accessible to court bailiffs, taking into account the form of the information and the costs incurred by the tax authorities for making the information accessible;
- 2) the procedure for collecting and paying the fee by court bailiffs for making the information accessible, taking into account the organisation of activities regarding the collection of the fee and the form of payment.

Art. 299a. Marking by a clause. Case files referred to in Article 298, and documents including the information referred to in Article 299, transferred to the authorities and persons referred to in Article 298 items 4-7 and Article 299 § 2-4, shall be provided with the clause „Fiscal secrets”.

Art. 299b. Disclosure of secret information.

§ 1. The minister responsible for public finances may give his consent to the heads of tax offices, heads of customs offices, directors of tax chambers and directors of customs chambers revealing certain information constituting fiscal secrets, except for information that is subject to secrecy other than fiscal and is protected on the basis of separate acts, indicating at the same time the procedure for making it accessible and using the revealed information.

§ 2. The consent referred to in § 1 may be given only due to an important public interest, or if it is necessary for a tax inspection or tax proceedings, or when revealing such information constitutes a citizen's right to be reliably informed of the tax authorities activities and the openness of public life.

§ 3. The consent referred to in § 1 shall be expressed in writing, at the justified request of the head of a tax office, head of the customs office, the director of a tax chamber or the director of a customs chamber.

Art. 300 (*repealed*)

Art. 301. Reference. The provisions of Articles 297-299 shall not infringe the rights of the party provided for in Article 178 and Article 179.

Art. 302-304 (*repealed*)

Art. 305. Collective information.

§ 1. The minister responsible for public finances will make public any collective information on taxes.

§ 2. The tax authorities are also entitled to the right referred to in § 1.

§ 3. The President of the Supreme Chamber of Control is also entitled to the right referred to in § 1.

Dział VIIa. Exchange of Tax Information with other States.

Rozdział 1. General principles for the exchange of tax information.

Art. 305a. Access to tax information. Within the scope and in accordance with the principles resulting from double taxation agreements and other ratified international treaties the Republic of Poland is a party to, and other international treaties the European Community is a party to, the information contained in the case files of tax proceedings or other tax information may be made available to the competent authorities of foreign countries, on condition that the information shall be used in accordance with the principles specified in these treaties.

Rozdział 2. Detailed Principles for the Exchange of Tax Information with the European Union Member States.

Art. 305b. Scope of exchange. The exchange of tax information shall include all information relevant to correctly determine the taxable base and the amount of a tax obligation within the scope of:

1) the taxation of income, assets and capital, regardless of the method and form of taxation, including taxation of income from sale of goods or property rights and an increase in the value of assets or capital.

2) (*repealed*)

3) the taxation of insurance premiums
- hereinafter referred to as „information”.

Art. 305c. Entitlements of the minister.

§ 1. The minister responsible for public finances will request the foreign authorities to provide the information, and will provide them with information in accordance with the principles set out in this chapter.

§ 2. The minister responsible for public finances is entitled to authorise the General Inspector of Treasury Inspections, the director of a tax chamber and the head of a tax inspection office to request the foreign authorities for information and provide them with information in accordance with the principles laid down in this chapter.

Art. 305d. Information for the request. The information shall be provided at the request of foreign authorities or *ex officio*.

Art. 305e. Content of the request. A request for information should include:

1) identification data of the person whom the information shall concern: name (business name), address and other available data necessary to identify the entity that the request concerns;

2) a specification of the scope of requested information and the purpose it shall be used for;

3) a declaration that all the possibilities to obtain information under the national law of the requesting state have been exhausted;

4) an obligation to keep the provided information secret, according to the national law of the state submitting the request.

Art. 305f. Proceedings.

§ 1. A request by foreign authorities shall initiate the proceedings in matter of providing information.

§ 2. The proceedings should be completed without unnecessary delay.

§ 3. The foreign authorities shall be informed of any failure to provide information timely, as well as of the reasons of not meeting the deadline for providing information.

§ 4. A ruling shall be issued on providing or refusing to provide information.

Art. 305g. Summons to complete.

§ 1. If the data included in an application from foreign authorities are not sufficient to provide information, the competent authority will immediately summon this authority to send additional data by a specified deadline.

§ 2. If the application is not completed in accordance with the summons referred to in § 1, the competent authority will refuse to provide the information.

Art. 305h. Refusal to provide information. The information shall be refused, if:

1) there is a justified suspicion that the foreign authority has not exhausted all possibilities of obtaining the requested information under the provisions of national law;

2) the tax authority or tax inspection authority is not entitled to obtain the requested information;

3) separate regulations or ratified international treaties prevent the provision of the requested information, or for using it for the purposes indicated in the requesting state's application;

4) the provision of information would lead to the disclosure of business, industrial or professional secrets, or production process secrets;

5) the provision of the information would infringe the public order of the Republic of Poland;

6) the requesting state is unable to provide similar information;
7) the provisions of national law of the requesting state do not ensure the information shall come under the same secrecy on the same terms as information obtained on the basis of the provisions of national law of the requesting State.

Art. 305i. Withdrawal of an application. An application for information may be withdrawn by the competent authority at any time.

Art. 305j. Appropriate application. In cases not regulated by the provisions of Articles 305b-305i the provisions of Chapters 1, 2, 4, 5, 8, 9 and 14 of Section IV shall apply accordingly.

Art. 305k. Appropriate application.

§ 1. The competent authority shall *ex officio* provide information to a foreign authority, if:

1) a reduction of tax receivables or a circumvention of the tax law provisions of a member state of the European Union is substantiated;

2) the taxpayer benefiting from tax relief may constitute the basis for a tax obligation or an increase in the amount of a tax obligation in a member state of the European Union;

3) the findings of tax or inspection proceedings, made on the basis of information obtained from a foreign authority, may be useful for determining the correct amount of the taxation bases and the amount of a tax obligation.

§ 2. The provisions of Article 305h shall apply accordingly.

Art. 305l. Entering into agreements. In order to improve co-operation, the minister responsible for public finances is entitled to enter into bilateral or multilateral agreements with foreign authorities within the scope of detailed principles and procedure for the exchange of information.

Art. 305m. Further transfer of information. The information obtained from a foreign authority may be transferred to another foreign authority with the consent of the authorities from the state that provided the information.

Rozdział 3. Detailed Principles for the Exchange of Information about Revenues (Income) from Saving.

Art. 305n. Information from the minister.

§ 1. The minister responsible for public finances will *ex officio* transfer information concerning the revenue (income) from the savings of an individual, where payment in accordance with the provisions of personal income tax requires submitting individual information on the revenue (income) received by a person who, due to the place of residence, is subject to tax liability on all their income:

1) in a member state of the European Union, or

2) in dependent territories or associated territories of the United Kingdom of Great Britain and Northern Ireland, and the Kingdom of the Netherlands, subject to the regulations of agreements on the taxation of revenue (income) from the savings of an individual concluded by the Republic of Poland with these territories
- to the competent authorities of these states and territories.

§ 2. The information shall be transmitted at least once a year within six months after the end of the fiscal year of the entity paying revenue (income).

§ 3. In order to improve co-operation, the minister responsible for public finances may conclude bilateral or multilateral agreements with the competent authorities of the states and territories referred to in § 1 within the scope of specific principles and procedures for the exchange of information.

Art. 305o. Appropriate application. The provisions of Article 297a shall apply accordingly to the information referred to in Article 305n § 1 concerning the taxpayers with unlimited tax liability in the Republic of Poland, received by the minister responsible for public finances from the competent authorities of other states or dependent territories or associated territories.

Dział VIII. Criminal Provisions.

Art. 306. Penalties for disclosing secrets.

§ 1. Anyone who, while obliged to keep fiscal secrecy, discloses information covered by this secrecy, shall be subject to imprisonment for up to five years.

§ 2. Anyone who, while obliged to keep fiscal secrecy, discloses the information specified in Article 182, shall be subject to imprisonment for six months to five years.

§ 3. If the perpetrator of the act specified in § 1 or 2 acts unintentionally, he or she is subject to imprisonment for up to two years.

§ 4. If the injured party is not the State Treasury, the prosecution of the offence takes place at the request of the injured person.

Dział VIIIa. Certificates.

Art. 306a. Certificates.

§ 1. A tax authority shall issue a certificate at the request of an applicant applying for a certificate.

§ 2. A certificate is issued, if:

1) an official confirmation of certain facts or legal status is required by the provision of law;

2) a person applies for a certificate due to its legal interest in the official confirmation of certain facts or legal status.

§ 3. A certificate shall confirm the facts or the law existing on the day of its issue.

§ 4. A certificate shall be issued within the scope of the applicant's request.

§ 5. A certificate shall be issued without unnecessary delay, but no later than seven days after submitting an application for the certificate, subject to §6.

§ 6. The certificate referred to in Article 306m § 1 shall be issued without unnecessary delay, but no later than two months after submitting an application for the certificate.

Art. 306b. Obligation to issue a certificate.

§ 1. In the cases referred to in Article 306a § 2, the tax authority shall be obliged to issue a certificate confirming the facts or legal status resulting from files and registers maintained by the authority, or other data in its possession.

§ 2. The tax authority, before issuing the certificate, is entitled to conduct appropriate investigation proceedings.

Art. 306c. Refusal to issue a certificate. A refusal to issue a certificate, or a certificate with contents requested by the applicant, is made in a ruling, which may be complained against.

Art. 306d. Facts known ex officio.

§ 1. The tax authority must not request a certificate for the purpose of confirming facts or legal status, if they are known to the authority ex officio, or determinable by the authority on the basis of:

- 1) the files, registers or other data;
- 2) official documents provided by the interested party to review;
- 3) public registers owned by other public entities, to which the authority has an electronic access according to principles indicated in provisions of the Act on Informatisation of Activities of Entities Realizing Public Tasks of 17 February 2005;
- 4) information received from another public entity according to principles indicated in provisions of the Act on Informatisation of Activities of Entities Realizing Public Tasks of 17 February 2005.

§ 2. If the tax authority requires from the party a certificate confirming facts or legal status, it is obliged to indicate a provision of law requiring the official confirmation of these facts or legal status by a certificate.

Art. 306e. Certificate on the lack of arrears.

§ 1. A certificate on the lack of arrears, or confirming the amount of arrears, shall be issued on the basis of documentation of the given tax authority and the information received from other tax authorities.

§ 2. Before issuing the certificate referred to in § 1, it shall be established whether, in respect to the applicant, any proceedings are being conducted to establish or determine the amount of a tax obligation. If such proceedings are being conducted and the evidence collected allows it to be completed, a decision establishing or determining the amount of the tax obligation shall be issued immediately so it can be shown in the certificate.

§ 3. If it is not possible to complete the proceedings referred to in § 2, the tax authority may not refuse to issue a certificate before the lapse of the deadline referred to in Article 306a § 5. While issuing the certificate, the authority provides information about the conducted proceedings.

§ 4. At the request of the applicant, the certificate shall also include information on:

- 1) whether the applicant is involved in:
 - a) proceedings aimed at disclosing any tax arrears and determining the amount,
 - b) administration enforcement proceedings, including arrears other than the applicant's tax obligations,
 - c) proceedings in matters of revenue offences or revenue petty offences;
- 2) concerning:
 - a) the periods from when the tax arrears arose and their titles,
 - b) the taxes for which a payment deadline has been deferred, or for which payment has been spread into instalments.

§ 5. If the payment of tax arrears with default interest has been deferred or spread into instalments, it is deemed that the taxpayer, tax remitter or tax collector, on the day that the deadlines referred to in Article 49 § 1 expire, does not have any tax debts.

§ 6. Within the scope referred to in Article 239d, it is deemed that tax arrears do not exist until a final decision is issued.

Art. 306f. Certificate of the deceased's liabilities.

§ 1. The tax authority, at the request of the person who shows a likelihood of being an heir, will issue a certificate on the deceased's tax obligations referred to in Article 98 § 1 and 2, known to the tax authority.

§ 2. If tax proceedings on the determination or establishment of the amount of the deceased's tax obligations have not been completed, the certificate will include the approximate amount of the obligation on the basis of the existing data concerning the taxable base.

Art. 306g. Certificate of the transferor's liabilities.

§ 1. Within the scope referred to in Article 112 § 1, the tax authorities shall issue a certificate on the amount of the transferor's tax obligations:

- 1) at the transferor's request;
- 2) at the purchaser's request, with the transferor's consent.

§ 2. In the certificate referred to in § 1, the tax authority shall determine the amount of the transferor's tax obligations as of the day of issuing the certificate.

§ 3. The provisions of § 1-2 shall apply accordingly to the receivables listed in Article 107 § 2, items 2-4, covered by the liability of the acquirer.

Art. 306h. Consent of the taxpayer.

§ 1. The tax authorities, with the taxpayer's consent, shall issue a certificate showing the amount of the taxpayer's tax obligations at the request of:

- 1) organisational units that, under the acts governing the principles of their operation, are entitled to grant credit (loans);
- 2) the taxpayer's contractors pursuing economic activity, as well as lessors and usufructuaries of real properties - within the scope of the taxation of the lessor or usufructuary of the real property;
- 3) the taxpayer's spouse, subject to § 2, and a divorced spouse to the extent of tax arrears arising during joint marital property, and other persons listed in Article 111;
- 4) partners of the partnerships listed in Article 115 § 1.

§ 2. The taxpayer's consent shall not be required if the request for the certificate referred to in § 1 is made by the spouse of a taxpayer remaining with him or her in joint marital property. The spouse of the taxpayer shall make a declaration on remaining in joint marital property with the taxpayer, under the threat of criminal responsibility for false testimony.

Art. 306i. Certificate of the amount of income.

§ 1. The tax authority, at the request of a taxpayer, shall issue a certificate on the amount of his or her income or turnover.

§ 2. Certificates on the amount of income or turnover shall only state whether or not the requesting party is a taxpayer of:

- 1) the tax on goods and services tax and excise duty, with the determination of the turnover;
- 2) income tax (in all forms of taxation); in the case of taxation with personal income tax on the general rules - with the determination of the amount of an income adopted for a taxable base, and in the case of legal persons - with the determination of the amount of income adopted for the taxable base, as well as the amount of tax due.

Art. 306j. Delegation. The minister responsible for public finances will issue a regulation determining:

- 1) the procedure for issuing certificates, taking into account, in particular the proper organisation of activities related to issuing certificates;
- 2) the local and material competence of tax authorities to issue certificates, taking into account the type of tax obligation;
- 3) the template for a register of certificates, and the detailed manner of keeping it, taking into account the content of the application for a certificate, the date of submitting it or giving consent for the issue of the certificate, the manner of settling the application, the contents of the issued certificate and the applicant's identification data, taking into account the simplification and improvement of the process of issue of the certificates;
- 4) the template for records of transferred or received information in matters of certificates and the detailed manner of keeping them, taking into account in particular the identification data of the person that the certificate concerns, the content of transmitted or received information, the identification data of the person or authority transferring such information;
- 5) the template for certificates, in particular the scope of the data shown in the certificate and the applicant's identification and the authority issuing the certificate;
- 6) the template for the certificate referred to in Article 306h § 2, taking into account the data identifying the spouses.

Art. 306k. Reference. In cases not regulated by Articles 306a-306i and 306l and 306m, the provisions of Chapters 1-6, 8-12, 14, 16 and 23 of Section IV, shall apply accordingly.

Art. 306l. Residence certificate. At the taxpayer's request, the tax authority shall issue a certificate of the taxpayer's place of residence or its registered office for tax purposes in the Republic of Poland (certificate of fiscal residence).

Art. 306m. Certificate of the place of the residence.

§ 1. At the taxpayer's request, the tax authority shall issue a certificate of the place of residence for tax purposes in the Republic of Poland of an individual receiving revenue (income) referred to in Article 305n § 1, from sources located:

- 1) in the Republic of Austria, the Kingdom of Belgium, the Grand Duchy of Luxembourg, the Principality of Andorra, the Principality of Monaco, or
- 2) in the dependent territories or associated territories of the United Kingdom of Great Britain and Northern Ireland, and the Kingdom of the Netherlands, according to the regulations of the agreements on the taxation of revenue (income) from the savings of individuals concluded by the Republic of Poland with these territories.

§ 2. The certificate referred to in § 1, shall also include the following information, submitted by the requesting party to a tax authority:

- 1) the name, surname and address of the entity that pays or makes available revenue (income);
- 2) the requested party's account number and, if no number is available, the legal title from which the obligation arises, constituting the basis for paying or making available revenue (income).

Art. 306n. Authorisation for the minister. The minister responsible for public finances will issue a regulation determining the templates for the certificates referred to in Article 306l and Article 306m § 1, taking into account the scope of data indicated in the certificates, and the data identifying the requesting party and the authority issuing the certificate.

Rozdział 1. Amendments to the Provisions in Force.

Art. 307-323 (*intentionally omitted*)

Rozdział 2. Transitional Provisions.

Art. 324. Cases initiated previously.

§ 1. The provisions of the act, subject to § 2, shall apply to cases commenced but not completed by the tax authority of the first instance before 1 January 1998.

§ 2. Applications submitted before the day of this act entering into force, for:

- 1) the deferment of the day of tax payment,
 - 2) spreading the payment of tax or tax arrears into instalments,
 - 3) deducting tax obligations
- shall be examined under the provisions of the Tax Obligations Act.

Art. 325. Application to cease the collection of tax. The provisions of Article 22 § 4 shall also apply to applications to cease the collection of tax submitted but not examined before the day of this act entering into force.

Art. 326. Expiry of a statutory mortgage.

§ 1. A statutory mortgage that was created within one year from the day of this act entering into force shall expire after 12 months from the day of its creation, unless the tax authority submits an application to enter it in the Land and Mortgage Register within the same time limit.

§ 2. Statutory mortgages that were created before the day of this act entering into force shall expire if the tax authority does not submit an application to enter the mortgages in the Land and Mortgage Register within 12 months from the day of this act entering into force.

Art. 327. Expiry of pledges. Statutory pledges created before the day of this act entering into force shall expire.

Art. 328. Mutual deduction. Claims against the State Treasury or the state budget units that became due before the day of this act being announced, may be deducted according to the principles provided for in the Tax Obligations Act, if the application for the deduction is submitted before the day of this act entering into force.

Art. 329. Time limits. The deadlines provided in:

- 1) Article 69 § 2 - shall also apply to events that occurred before the day of this act entering into force;
- 2) Article 80 § 1 item 1 - shall also apply if, within one month preceding the date of this act entering into force, a tax remitter has collected tax unduly or in the amount higher than the amount due.

Art. 330. Refund of an overpayment. A tax refund established before the day of this act entering into force shall be refunded under the provisions of the Tax Obligations Act.

Art. 331. Correction of a declaration.

§ 1. The right to correct a tax return, as referred to in Article 81 § 2, shall also apply to tax returns submitted before the day of this act entering into force.

§ 2. In the cases referred to in § 1, the provisions of Article 81 § 3 shall apply accordingly.

Art. 332. Liability of the third parties. The provisions of the Tax Obligations Act shall apply to the liability of third parties referred to in the Tax Obligations Act, by virtue of tax arrears that arose before the day of this act entering into force.

Art. 333. Division of a legal person. The legal persons referred to in Article 117 shall also be responsible for the tax arrears that arose before the day of this act entering into force.

Art. 334. Appellate proceedings.

§ 1. Appeals against a decision of a tax office, submitted to the tax appeal commission before 1 January 1998 shall be transferred for further examination by the competent tax chambers. Acts undertaken in the course of proceedings by the tax appeal commission shall remain in force.

§ 2. Applications for the resumption of proceedings resolved by a final decision issued by the tax appeal commission, as well as applications for a reversal, amendment or invalidation of a decision shall be examined by the tax chamber operating by such commission.

§ 3. Applications in the cases referred to in § 2, submitted before 1 January 1998 shall be examined in accordance with the hitherto provisions of the Code of Administrative Proceedings.

Art. 335. Appeals against the decision. Appeals against decisions issued on the basis of the provisions of the Tax ordinance act, submitted before 1 January 1998, shall be examined in accordance with the provisions of this act, and in accordance with the hitherto provisions of the Code of Administrative Proceedings.

Art. 336. Reversal of a final decision. Applications for a reversal, or amendment of a final decision under which a party has acquired a right, submitted before 1 January 1998, shall be examined in accordance with the procedure and upon the principles provided for in Article 155 and Article 177 of the Code of Administrative Proceedings.

Art. 337. Demand to invalidate a decision. A request to reverse, amend or invalidate a final decision determining the amount of tax arrears, submitted before 1 January 1998, shall be examined according to the principles provided for in the hitherto provisions of the Code of Administrative Proceedings.

Art. 338. Demand to invalidate a decision; discontinuance of the proceedings.

§ 1. The proceedings in matters of a reversal, amendment or invalidation of a final decision initiated *ex officio*, shall be discontinued if the decisions were issued before 1 January 1997, unless the party requests the re-examination of the case.

§ 2. The provision of § 1 shall not apply to proceedings in matters referred to in Article 250.

Art. 339. Extension of Article 258. The provisions of Article 258 § 1 items 3-5, § 2 and 3 and Article 259 shall also apply to decisions issued before the day of this act entering into force.

Art. 340. Deadline. The statements referred to in Article 278 § 3-5 and Article 279 § 3 must be submitted within two months from the day of this act entering into force.

Art. 341. Deadline. If the provisions in force refer to the provisions of the Act on Tax Obligations, or generally refer to provisions on tax obligations, the provisions of Section III of this act shall apply.

Art. 342. Limitation on the information obligation.

§ 1. During the period to 31 December 1999, the financial institutions listed in Article 182 may apply to the tax office that has requested information, for a limitation of the scope of the requested information and the time for providing it.

§ 2. The application referred to in § 1 must be submitted within 14 days from the day of receiving the request, and must be justified.

§ 3. The tax office shall finally decide on the scope of the requested information and the deadline for furnishing it, within 30 days from the day of receiving the application.

Rozdział 3. Final Provisions.

Art. 343. Loss of binding force.

§ 1. The following acts shall lose their binding force:

- 1) the Decree on cancelling and granting relief for payment of State dues of 16 May 1956 (J.L. No. 17, item 92 and of 1975 No. 10, item 56);
- 2) the Act on the Detailed Procedure of Collecting Payments Due by Virtue of Certain Obligations on Owners of Real Properties to the State of 21 December 1958 (J.L. of 1958, No 77, item 398, 1962, No. 38, item 166, 1971 No. 27, item 250);
- 3) the Tax Obligations Act of 19 December 1980 (J.L. of 1993 No. 108, item 486 and No. 134, item 646; of 1995 No. 5, item 25 and No. 85, item 426; of 1996 No. 75, item 357; of 1997 No. 121, item 770).

§ 2. (*intentionally omitted*)

Art. 344. Entry into force. This act shall enter into force on 1 January 1998, though the provisions of Article 22 § 6, Article 28 § 3, Article 46 § 3, Article 48 § 3, Article 56 § 3, Article 58, Article 67 § 3, Article 79 § 3, Article 82 § 3, Article 83, Article 84 § 2, Article 87 § 5, Article 119, Article 196 § 4, Article 283 § 3, Article 303, Article 314 item 2 and 3, Article 316 § 1 and Article 328 shall enter into force on the date of the announcement.