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TAX CONTROL AND INSPECTION SUPERVISION IN THE REPUBLIC OF SERBIA—CHARACTERISTICS OF THE LEGAL FRAMEWORK AND THE NEED FOR COORDINATION

Abstract

Today, the success of entire tax system is viewed through the effectiveness of tax control. Tax control activities are performed by tax inspectors with special authorities, duties and responsibilities, and its purpose is to control whether taxpayers activities comply with tax laws and regulations. With the adoption of the Law on inspection supervision, the Republic of Serbia has implemented a crucial, comprehensive reform of inspection bodies and the process of inspection supervision which has been of great significance for public administration, economy and citizens. The provisions of this law are applied to tax procedures based on the principle of subsidiarity, while the activities of tax inspection are mostly based on the provisions of the Law on tax procedure and tax administration.

In tax procedures, the issues which are not regulated by the general Law on inspection supervision, are the subject of another specific law – however; the direct application of the specific law cannot rule out or restrict the application of the law which governs the issues of inspection supervision and official control which are not regulated by the specific law. In this paper, the author discusses the similarities and differences between two laws and solutions for their harmonization underlining their advantages and weaknesses aimed at ensuring the maximum compliance with tax laws and reduction of tax evasion and shadow economy.

Key words: tax control, inspection supervision, taxpayer, the supervised subject

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ПОРЕСКА КОНТРОЛА И ИНСПЕКЦИЈСКИ НАДЗОР У РЕПУБЛИЦИ СРБИЈИ – ОСОБЕНОСТИ НОРАМТИВНОГ ОКВИРА И ПОТРЕБА КООРДИНАЦИЈЕ

Апстракт

Данас се успешност целокупног пореског система посматра кроз пореску контролу. Послове пореске контроле обављају порески инспектори са посебним овлашћењима, дужностима и одговорностима, а њена сврха јесте провера да ли је поступање одређеног субјекта усклађено са законом и подзаконским актима. Доношењем Закона о инспекцијском надзору спроведена је свеобухватна суштинска реформа инспекција и инспекцијског надзора која је од великог значаја за јавну управу, привреду и грађане. Одредбе овог закона се супсидијарно примењују у пореском поступку, док пореска инспекција пре свега примењује одредбе Закона о пореском поступку и пореској администрацији.

За питања која су другачије уређена у односу на Закон о инспекцијском надзору, у поступку контроле се примењују одредбе посебног закона, али непосредна примена посебног закона не може искључити или ограничити примену закона којим се уређују питања инспекцијског надзора и службене контроле који нису уређени посебним законом. У овом раду се разматрају сличности и разлике у примени оба закона, њихово усаглашавање и указује на предности и недостатке са циљем да се обезбеди максимално поштовање пореских прописа и смањи пореска евазија и сива економија.

Кључне речи: порска контрола, инспекцијски надзор, порески обвезник, надзирани субјекат

Introduction

The tax reform which started in 2001 included the adoption of the Law on tax procedure and tax administration which regulates the procedure of determining, controlling and collecting public revenues. The normative and legislative significance of this law lays in the fact that previous tax procedure had been regulated by several laws which considerably hindered its efficient application. A separate section of this law, and it can be said one of the most important, is dedicated to the issue of tax control. It is defined as a control procedure aimed at determining whether the taxpayers comply with tax laws. It is conducted by Tax Administration for the purpose of identifying irregularities and oversights in meeting the obligations foreseen by tax laws and regulations. The tax control includes the collection of information in order to determine the level of compliance with existing laws and constitutes an essential part of tax system ensuring that taxpayers meet their obligations (Enofe, Embele, Obazee, 2019, 51). The significance of tax control lies in its insurance that the information the taxpayers provide in their tax form are complete and true (OECD, 2016, p. 14). It enables identifying the data related to tax evasion since the control includes a large number of taxpayers and each of the obtained

data can be used for the initiation of actions against tax evasion and shadow economy. The tax control is the basic means for ensuring the compliance with tax laws in most tax jurisdictions worldwide maximizing the estimated tax revenue for the governments in both developed and developing countries. It represents a vital instrument for collecting taxes which are essential for the state budget, as well as for maintaining economic and financial order and stability (Olaoye, Ekundayo, 2019, p. 4).

The state administration is in charge of conducting the inspection supervision for the purpose of ensuring legality and safety of work performed by the supervised subjects (legal persons, entrepreneurs and natural persons) and preventing or eliminating the damaging consequences that may result from their actions. The procedure of inspection supervision, the authorities and obligations of the subjects participating in the procedure, as well as other supervision related issues are regulated by the Law on inspection supervision, which came into force on April 29th, 2016. The inspection supervision is performed by inspection bodies, that is the inspectors with special authorities, duties and responsibilities who meet the requirements for performing supervising activities defined by law. The provisions of this law apply to the work of tax inspectors as well, but only in domain not regulated by the specific law. Given the fact that the Law on tax procedure and tax administration governs all issues related to determining, controlling and collecting public revenues, registration, rights and duties of taxpayers, as well as tax penalties for criminal offences and misdemeanors - this makes it a specific law in relation to the Law on inspection supervision, and, therefore, the tax police involved in tax inspection supervision mostly acts according to the provisions of this specific law. However, the direct application of the specific law cannot rule out or restrict the application of the law which governs issues of inspection supervision and official control which are not regulated by the specific law (“Official Gazette of the Republic of Serbia” no. 35/15, 44/18, 95/18, Law on inspection supervision, Article 4, paragraph 5).

The tax control mechanism – functions and operative specifics

Tax bodies are expected to apply tax laws consistently and impose taxes that, based on these laws, correspond to taxpayers actual economic strength, which makes the tax control one of the most important tax functions enabling an adequate and timely fulfilment of tax obligations (Andjelkovic, 2016, p. 162-163). Tax control activities, particularly those aimed at countering shadow economy, are performed by Tax Administration via tax inspectors (Milosevic, Kulic, 2013, p. 145). Tax control is an activity of a tax body which assesses whether a taxpayer’s activities comply with tax laws and regulations. Today, the success of entire tax system is viewed through the effectiveness of tax control. Any problem in its organization or work may impact the efficiency of tax collection. Therefore, in practice, it is often believed that the tax control is actually “the heart” of tax administration, the absence of which would question the mere purpose of its existence. A tax body initiates tax procedure *ex officio* or at the request of a client and the tax procedure is deemed initiated by performing any action aimed at governing this procedure (Vukša, 2011, p. 74). Whether tax control has positive impact on taxpayers’ compliance with tax laws is the question to which tax experts often give opposite answers. Some of them state that after a tax control, particularly if it results

in additional tax burden, the taxpayer may think that tax authorities will continue to monitor its activities and that he will be “easily caught” if it attempts to cover its revenue. On the other hand, some taxpayers think that following the tax control there is less chance that they will be selected again for tax control which may encourage their tax evasive activities (Yongzhi, 2011, p. 238).

Tax administration management requires a functional reporting system - timely obtained, valid, legitimate and reliable data on revenue sources per type of business, locations and taxpayers' categories required for performing various analyses, issuing recommendations for modification of tax regulations and undertaking certain measures (Dimitrijevic, 2003, p. 311). The prerequisite for performing a successful tax control is the existence of a good information system and developed network for the exchange of information between various bodies and departments. The facts are established based on evidence, but taking into account that there are various types of taxes, the tax control procedure may include checking, in addition to tax applications, tax balances, business records, accounting statements and other documents and information available to tax bodies collected from the taxpayers themselves or third persons – witness statements, expert witness findings, investigation results, and any other relevant means used for establishing the factual state (“Official Gazette of the Republic of Serbia” no. 80/02, 84/02 23/03, 70/03, 55/04, 61/05, 85/05, 62/06, 63/06, 61/07, 20/09, 72/09, 53/10, 101/11, 2/12, 93/12, 47/13, 108/13, 68/14, 105/14, 91/15, 112/15, 15/16, 108/16, 30/18, 95/18, 86/19, 144/20, Law on tax procedure and tax administration, Article 43, paragraph 2). The tax body is required to produce the facts relevant for proving the existence of tax obligation, while the taxpayer needs to produce the facts relevant for reducing or canceling its tax obligation.

Tax control embodies a triple function: preventive, corrective and repressive. The preventive function serves to encourage taxpayers to comply with tax laws and regulations (Kulić, 2007, p. 159) in order to avoid to be sanctioned for tax offences. The corrective function is aimed at monitoring the taxpayers' activities and offers a unique, efficient control of data relevant for determining tax obligations, while in case of identifying irregularities related to meeting tax obligations, certain corrective measures are imposed on taxpayer to ensure their elimination. The repressive function is applied when taxpayers fail to correct the irregularities identified in their work within defined deadline and are, therefore, subjected to criminal charge and other penalties and fines. Identifying and sanctioning of taxpayers non-compliant behavior contributes to increasing tax (budget) revenue (Dimitrijevic, 2017, p. 91).

The control is performed based on the annual plan which is adopted according to tax significance grade, that is the taxpayer risk assessment, as well as based on the emergency plan which is adopted in unexpected circumstances. During its preparation, the effects of the control on the tax collection efficacy is taken into account. It requires a strategy which prioritizes large taxpayers due to their large contribution to budget. Therefore, it is important to classify the taxpayers into groups based on their tax obligation, acquired revenue and the type of business (Hrustic, 2007, p. 228). A control is performed in several phases which include: preparation, conducting control, making a report and issuing a decision, and, if necessary, filing a request for initiating a criminal or misdemeanor proceeding.

The provisions of the Law on tax procedure and tax administration in previous times included two different types of tax control: desk control and field control. As of

2019, the law does not make a distinction between these two forms of tax control, that is they are jointly regulated as a tax control. In some cases there is a need for tax control to be performed in the taxpayer's business premises, while in others it is sufficient that business records and documents are collected and sent to the tax body to be inspected there (OECD, 2006, 10). The tax control procedure may involve the control of all taxpayer's tax obligations, or the inspectors may focus only on one tax type. A desk control is usually limited to the information that can be acquired by the taxpayer and via tax information system, while a field control includes a wider spectrum of issues and evidence that can be acquired on the spot, that is in the taxpayer's business premises (Pentland, Carlile, 1996, p. 275-276). The control is performed during the taxpayer's business hours, or exceptionally after business hours if the purpose of control requires longer time, or if there is an agreement with the taxpayer. Tax control is considered to be one of the most sensitive contacts between the Tax Administration and a taxpayer. The presence of tax inspectors in the taxpayer's home or business premises, along with the collection of information from business records and accounts, or even the mere interruption of daily business routine, imposes a burden on the taxpayer, who often feels that it is an unjustified intrusion into his business activities. Despite such feelings, the tax control remains the most efficient way for determining the facts important for establishing tax obligation or verifying the truthfulness of the data produced by the taxpayer.

A tax control usually starts with the taxpayer's filing a tax form. After the form is received and registered, tax officers check their calculating accuracy, formal correctness, wholeness, as well as the adequacy of the reports submitted along the form. Contemporary tax information systems have greatly contributed to reducing time needed for processing tax forms which are electronically filed and the system itself can identify most of the irregularities. A tax body may call taxpayer and request the filing of its tax form or producing additional documentation and information within reasonable timeframe, all for the purpose of establishing its tax obligation. The taxpayer needs to comply with all requests of the tax body and produce all information required for establishing its tax obligation. The same applies to third persons: legal entities, banks, state bodies and organizations, local government and autonomous province's bodies, etc. which are all under the obligation to provide, at the request of the tax body and within the timeframe it specifies, all available information necessary for establishing the state of facts relevant for taxation. („Official Gazette of the Republic of Serbia“ no....144/20, the Law on tax procedure and tax administration, Article 45, paragraph 1). The new provisions regulating the tax procedure allows issuing of a decision on establishing tax obligation based on the data and documents obtained from relevant bodies, without obtaining the taxpayer's statement on the state of facts relevant for taxation. In this way a tax inspector may establish tax obligation on the bases of the data and documents he collected even if the tax form has never been filed by the taxpayer. In order to apply this legal novelty, it is necessary to have a good organization of tax administration, reliable information support system and continuing education and development of tax inspectors enabling them to navigate this complex tax procedure (Brčić, 2002, p. 661).

If during tax control procedure a tax inspector identifies the existence of tax irregularities, he writes the minutes in which he lists all the activities performed during the procedure in a chronological order including the supporting evidence, identifies

precisely the cases of non-compliance with tax laws and states the amounts of public revenue that have not been paid as a result of this non-compliance. A copy of the minutes is sent to the taxpayer, which he can object to within legally set timeframe. If his objections are supported by new evidence that may change the state of facts, the supplementary minutes are written which the taxpayer may not object to. However, if the inspector acquires new facts following the writing of the supplementary minutes, he will prepare an annex to the minutes which the taxpayer may challenge.

In order to eliminate the identified non-compliance with tax laws and irregularities in applying these laws and regulations, the taxpayer who has undergone the tax control may be subjected to penalties and fines according to law (Popovic, 2012, p. 181). Based on the tax control minutes and supplementary minutes, a decision is passed ordering the taxpayer to pay a certain amount of tax or to correct the identified irregularities. The decision must be duly sent to the taxpayer and include the instructions for legal remedy which the taxpayer may resort to.

The tax control may also be initiated by issuing a tax control order which is delivered to the taxpayer at the beginning of the control, not excluding the possibility to commence the procedure without the delivery of the order if its delivery would severely obstruct the procedure.

The role and importance of the tax control is particularly seen in identifying and eliminating a taxpayer's non-compliant behavior (Stojanovic, 2012, p. 919). It is taxpayers who are responsible for making a decision whether they will declare their income or evade paying taxes. If they decide to declare their income accurately, their tax obligation will remain the same regardless the fact whether a tax control takes place or not (Youngse, 2005, p. 522). Taking into account the lack of discipline of our taxpayers in meeting their tax obligations, the tax control is conducted mainly for the purpose of maximizing the compliance with tax laws and reducing the tax evasion and shadow economy.

Inspection supervision in the innovated legal framework

Inspection supervision examines the application of laws and other regulations by the supervised entity. As a specific type of administrative procedure, it differs from the general regime of administrative action according to the methods of execution and powers of the inspectors abiding by the principles and operating rules of state administrative officers. Inspectors are independent in their work which means that no one can prevent or hinder them from exercising their duties, that is no one can undertake the tasks and issue measures which are in their jurisdiction. Their powers are only limited by tax laws and other relevant regulations.

In order to be efficient in performing its tasks, the inspection body needs to have a well developed analytical function and unrestricted access to data and documentation in order to form a clear picture of the situation in the field of inspection supervision and risk assessment. The inspection supervision is performed according to the plan based on the established state of affairs in the given field and risk assessment, and the inspection body shall perform it unless prevented by justified circumstances. Planning is made on annual and perennial (strategic) basis. The strategic planning includes the field of

supervision, its scope, complexity, trends, the number of regulations whose application is supervised, as well as the number of supervised entities, which is important for planning the number of staff needed for performing certain inspections.

Inspection supervision is divided into following types: regular, exceptional, mixed, controlling and supplementary, while, based on the type of supervision, it can be a desk supervision or field supervision.

In order to achieve the goals of inspection supervision, the inspection body needs to act in a preventive way. The inspection supervision was previously considered to be a reaction of the inspection to the damage which had already been incurred; however, the Law on inspection supervision underlines the preventive action of inspection bodies before the violation of regulations or the damaging consequences take place. For this purpose, official counselling visits are planned providing expert opinion, explanation and answers to supervised entities, while applicable regulations, inspection supervision plans and checklists are published in order to prevent possible occurrence of damaging consequences. It may be said that the effects of preventive actions are achieved through its transparency, mainly by publishing the applicable regulations, inspection supervision plans and checklists, by informing the public of the amendments to the regulations and rights and obligations of the supervised entities stemming from them, by making public all the findings of the inspection regarding the existence of serious risk to human life and health and property of greater value, by providing professional and counseling support to the supervised entity, by publishing the amended regulations, by organizing official counselling visits and by undertaking preventive inspection supervisions and other activities aimed at the support of legality and safety of operation and conduct (Vuckovic, Vuckovic, Stefanovic 2017, p. 140). Each inspection body must prepare checklists within its field of inspection supervision which include the list of actions they are authorized to perform. The checklists are also used for the purpose of unification of inspection procedures and practices, and, therefore, their contents need to be changed and amended at least twice a year. During the inspection supervision, the inspector undertakes and checks all the actions contained in the checklists and, therefore, it serves as a reminder what needs to be examined. In addition to the preventive action, the inspection body also exercises its supervising function. The supervision procedure is initiated *ex officio*. By rule, the inspector informs the supervised entity of the upcoming inspection supervision prior to the commencement of supervision, except in the situation when such notification may

mitigate the achievement of the objective of the inspection supervision. The inspection order is prepared in a written form and includes all data required for initiating the inspection supervision which officially commences by delivering this order to the supervised entity. The inspector writes the minutes stating all the data relevant for the inspection supervision, particularly those mentioned in the order for inspection supervision, then the measures that need to be implemented within the specified timeframe, as well as the data on criminal charges or charges for commercial offences or misdemeanor offences that will be filed against the supervised entity. The checklist remains the constituent part of the minutes on the inspection supervision. The supervised entity is entitled to submitting objections to the minutes in a written form within five days from receiving the minutes. The inspector assesses the submitted objections, if any, and performs supplementary inspection supervision. If new facts have been set forth, along with the new evidence, due to which the factual situation, which has been determined in the minutes, needs to be modified, the

inspector prepares supplementary minutes, to which an objection may not be made. Acting upon objections to the minutes, the inspector may modify the proposed or ordered, i.e. imposed measure or waive it. (“Official Gazette of the Republic of Serbia” no. 35/15, 44/18, 95/18, Law on inspection supervision, Article 36, paragraph 5). The inspection supervision results in passing a decision on measures undertaken against the supervised entity, except in cases when no irregularities, deficiencies and omission are detected and the procedure is completed only by delivering the minutes of the inspection supervision. However, if during the performance of the extraordinary ascertaining, or confirming inspection supervision, the inspector fails to identify any irregularities, deficiencies and flaws, he issues a decision on fulfillment of prescribed conditions or confirmation of legality and safety of the supervised entity’s work. According to the provisions of the Law on inspection supervision, within eight days from the date of expiry of the deadline for implementation of measures imposed by the inspector’s decision, the supervised entity must inform the inspection of the implementation of imposed measures. In addition, the inspector monitors the implementation of the measures which he has issued and performs desk or field, i.e. on-site inspection supervision to determine whether the measures imposed by the decision have been implemented and files a motion for the initiation of misdemeanor proceedings if the entity has failed to implement them. The law also foresees the enforcement of the decision by sealing the building and equipment for the purpose of terminating the illegal and unsafe activities of the supervised entity.

New inspection system foresees a special procedure for regulating unregistered entities. Unregistered entity is a supervised entity which performs activities but is not registered with a relevant register or has no work permit issued by an authorized body. The inspection supervision of unregistered entities is performed according to the plan, but also when it was not envisaged by the supervision plan, without notification on the upcoming inspection supervision and without issuing an order for inspection supervision. When an inspector identifies an unregistered entity, he immediately issues a decision stating the measures to be implemented by the unregistered entity.

Following the modification and amendment of the Law on inspection supervision, a new form of supervision has been introduced, called covert shopping. It represents a specific method of collecting evidence in a case of a reasonable suspicion that a person operates as an unregistered entity or does not issue invoices and is applied if the necessary evidence cannot be provided or would be significantly more difficult to be provided in any other way. This form of inspection supervision is carried out without prior notification and presenting to the supervised entity the official identification document and inspection order. However, although the order is not delivered to the supervised entity, it should include the explanation of a reasonable suspicion and why by using other proving actions necessary evidence may not be produced, collected or secured, of why would that be significantly more difficult. This method represents an essential deviation from the general procedural arrangement of inspection supervision since the inspector without official identification covertly collects evidence and identifies himself and produces the order for supervision when he completes covert shopping (Martinovic, 2018, p. 1728). This method represents a specific type of evidence collecting and is used only in situations when the evidence cannot be obtained in any other way. Covert shopping remains a powerful instrument in inspection supervision used by many inspection bodies, including tax inspectors, for the purpose of countering shadow economy.

Inspection supervision in tax control

Inspection supervision is a procedure governed by a specific law which is, in case of tax procedure, applied based on the principle of subsidiarity. The provisions of the Law on inspection supervision are not necessarily applied to tax inspection since the scope of supervision, as well as the restrictions, powers, rights and obligations of its participants are defined by a specific law. Since the specific law supersedes the general law, harmonization process has been foreseen to take place within the timeframe of one year, in order to ensure the uniformity with the Law on tax procedure and tax administration. The provisions of the Law on inspection supervision regulate issues common to all inspection bodies which contributes to work rationalization and decrease of norms; however, more or less specific activities of individual inspection bodies are regulated by specific laws.

The aim of tax bodies is to ensure compliance with tax laws and improve services offered to taxpayers. Better understanding of their clients' motives and opinion related to taxation policy can enhance the efficacy of tax bodies (Hauptman, Horvat, Korez-Vide, 2014, p. 482). In its work, tax inspection first applies the Law on tax procedure and tax administration, then the Law on inspection supervision and, finally, the Law on general administrative procedure.

Tax control is conducted on the basis of an annual plan or extraordinary plan, passed by the Tax Administration director, which is based on the assessment of tax relevance and tax risk of taxpayers (“Official Gazette of the Republic of Serbia” no. 80/02...144/20, Law on tax procedure and tax administration, Article 118). The criteria that may be used for risk assessment are the type of business, turnover, the results of previous controls, the change of business seat, punctuality in filing tax forms, etc. It is more difficult to assess the risk of newly registered taxpayers since there are no sufficient information on their business activities in the first year of doing business, but they are not generally considered to be higher risk taxpayers. Regular control is conducted according to the annual plan passed by the Tax Administration director and the inspection body has to publish it on its web page. Operational plans for regular controls are made and control orders are issued on the basis of the annual plan. Extraordinary tax control is conducted if there is a reasonable suspicion of non-compliance with tax laws, or high risk of tax evasion.

Preventive action of tax inspection includes undertaking counselling visits aimed at making taxpayers aware of their tax obligations. This practice is predominantly introduced for micro, small and middle size enterprises and is mostly aimed at encouraging willing compliance with tax regulations among this kind of taxpayers.

The tax control procedure commences by delivering a notice to the taxpayer inviting him to participate in the procedure and produce requested explanation and documentation, while prior notification on upcoming tax control is not mandatory. Invitation and notification are different forms of the same legal institute and, in this case, notification represents a specific form of invitation and the invitation to participate in the tax control is a specific type of notification according to the Law on inspection supervision. The tax inspector may also conduct tax control based on the issued order which is delivered to the taxpayer prior to conducting the tax control. The two laws foresee different methods of delivering this order. In the tax procedure it is considered

delivered if it is served to the taxpayer's employee if it is a legal person, but if the taxpayer is a natural person or entrepreneur, if it is served to him directly or to an adult member of his household, or to entrepreneur's employee. In case these persons refuse to be served, the order shall be deemed served if the delivery official makes an official note of the refusal. Based on the Law on inspection supervision, if the supervised entity refuses the serving of the inspection supervision order, it is deemed that the inspection supervision commences by presenting the order and reading its contents to the supervised entity, while in case of unregistered entity, no order is required to be delivered to initiate an inspection supervision.

Tax control lasts as long as it is necessary to determine whether a taxpayer fulfils its obligations foreseen by the tax law and other related regulations, but its planned duration needs to be included in the order. If, after the examination of documentation and other data, the tax inspector decides that he needs more evidence for establishing the state of facts, he will conduct supplementary inspection supervision within 30 days from the date of completing the regular or extraordinary control. It is the taxpayer's obligation to participate in the tax control procedure, either directly or via its tax attorney and not responding to the invitation will not delay the commencement of the tax control procedure. Tax inspector may request orally from the taxpayer's employees to produce required data and documents and they have to make them available to the inspector. In case several inspection bodies perform an inspection supervision jointly, the supervised entity may refuse to provide certain data to an inspector during the supervision if they have already been given to another inspector participating in the same supervision, or if they have already been the subject of previously conducted supervisions, unless meanwhile they have changed. This issue has been regulated by the Law on tax procedure and tax administration, specifically to include misdemeanor sanctions in case of failing to provide requested information and evidence. Of course, it should be mentioned that the participation of the taxpayer (supervised entity) in this procedure is not only its obligation, but also its right as it is foreseen in both laws. If during the tax control an inspector identifies irregularities, he has to include them into the minutes. The taxpayer may express its objections to the minutes within eight days, while the inspector has five days to respond to them and prepare supplementary minutes. The supplementary minutes may not be objected to and the tax body will proceed with issuing a decision. In the inspection supervision procedure, the supervised entity has five days to state its objections to the minutes. After that, the inspector reviews them and decides whether there is a need for a supplementary inspection supervision, based on which supplementary minutes are prepared to which an objection may not be made. The tax body shall issue a decision within 60 days from the day of receiving the minutes or supplementary minutes on conducted control. The decision shall order the taxpayer to eliminate established violations of law or irregularities by filing a tax order or, in case of unregistered entities, the decision shall establish their tax obligation. In the inspection supervision procedure, it is the inspector who points to the violation of laws and irregularities of the supervised entity and proposes or issues measures for their elimination within the specified timeframe and includes them into the minutes of the inspection supervision. However, the tax control minutes cannot include the proposed and issued measures. Instead, based on the minutes, a decision is made ordering the taxpayer to implement them.

The provisions of the Law on inspection supervision are not applied on the tax procedure cases when the supervised entity has undertaken measures and actions aimed at eliminating the identified irregularities and therefore, the inspector will not initiate misdemeanor sanctions or issue a misdemeanor order. The specific law foresees that the tax body may not file a motion initiating a misdemeanor proceeding if the taxpayer on its own initiative and before the commencement of the tax control, reports the omissions it has made and pays the tax owed, along with the incurred interest rate, within specified timeframe.

Although Tax Administration is the part of the Ministry of Finance, its involvement in developing tax policy is not sufficient. Laws interpretation and decision making are in the exclusive jurisdiction of the Ministry of Finance and, therefore, the recommendations of Tax Administration on tax treatments often come late which contributes to spreading uncertainty among taxpayers. (Krstic, G., et al., 2013, p. 96). Some countries have a developed mechanism of previously issued tax guidelines which are binding for taxpayers who seek them before filing their tax forms and are considered to be one of the principles of acting in good faith (Andjelkovic, 2016, p. 167-168). The by-laws governing the application of regulations (opinions, explanations, guidelines) issued by the minister in charge of financial affairs, or the person he authorizes to act on his behalf, are published on the web pages of the Ministry of Finance and Tax Administration and are binding for all tax departments. According to the Law on inspection supervision, the by-law governing the application of regulations is issued and published on web page by the inspection upon its own initiative or upon the request of a natural or legal person within 30 days deadline (“Official Gazette of the Republic of Serbia” no. 35/15, 44/18, 95/18, Law on inspection supervision, Article 31). It represents a form of a professional and counselling support and the supervised entity who acted according to its provisions may not be issued punitive measures.

Coordination of tax administration and other inspection supervision bodies - a step forward in countering shadow economy

The synergy obtained by combining general mechanisms of inspection supervision and tax control instruments is particularly evident in domain of countering various transactions of shadow economy, which in the widest context include all forms of “the emigration from established work methods” (Stütsel, 1980, p. 453). During the entire transition period of domestic economic system, shadow economy has topped the list of burning issues of national economy whose consequences are seen in economic and financial spheres and whose possible solutions are, by rule, dependent on current political conditions.

Tax control activities and a numerous forms of inspection supervision performed by different public bodies provide a realistic assessment of the extent of shadow economy as a whole, as well as of the “neuralgic” segments of the informal market and at the same time represent the major operative instrument for returning them into legal flows. Partial attempts aimed at inventing effective mechanisms against economic transactions in the “grey zone”, which were exclusively based on intensifying *ad hoc* control measures of Tax Administration, have shown that an insufficiently comprehensive

approach to eliminating this phenomenon may result not only in the absence of expected results, but in considerable counter effects, as well. Meager outcomes of the “surface treatment” of the problem with shadow economy justify the conclusion that looking deeper into the problem of shadow economic flows would require not only political will, as a general precondition, but also: 1) adoption of a general legal framework and vertical coordination in planning public policy goals and the methods of their realization (the organization of the general planning system in domain of public policy); 2) creation of realistic and comprehensive strategic (mid and long term) plans of institutional activities with underlined models of connecting different control (preventive and repressive) mechanisms used for identifying undesired activities and 3) existence of detailed operative action plans which clearly mark boundaries between the jurisdiction of individual organizations.

As of 2015, the Republic of Serbia started to fulfill general preconditions for systematic countering the ballast of informal economy, although in an odd timeline. As a result of the coordinated analyses performed by a number of actors from public and non-government sectors, in 2015 the Government of the Republic of Serbia passed a National program for countering shadow economy (“Official Gazette RS“, no. 110/15), which could be considered as a legally rather comprehensive and policy-wise detailed framework for strategic countering the socio-economic causes of this phenomenon. However, the outset handicap of this framework (revised in 2019), which to a certain extent has affected its successful implementation, lies in the fact that until 2018 our country had no general legal framework for public system policy management which was one of main causes of a chaos in developing basic strategic and operative directions for countering shadow economy. The long-awaited adoption of the Law on planning system of the Republic of Serbia (“Official Gazette of RS”, no. 30/18) created the first preconditions for coherent planning of public policy in a structural sense (connecting horizontal and vertical planning flows), as well as in the context of connecting timeline planning coordinates in public sector (harmonization of short term goals with mid and long term public policy goals).

From the perspective of general public, the empirical research has led to a clear conclusion that citizens generally believe that ill-defined and blurred boundaries between the jurisdictions of bodies performing inspection supervision are mostly the result of the absence of coordination in their work (Milosavljevic, Nikolic, 2014, p. 50), which is a vital precondition of effective institutional fight with shadow economy. The need for coordination of the activities of public bodies is highlighted in the Law on inspection supervision in a more general context, while it is more closely defined in the Law on planning system. This law imposes the obligation on the Government of the Republic of Serbia to establish a specific public body – *the Coordinating Committee for inspection supervision* in charge of the harmonization of inspection supervision plans and the work of inspection bodies, as well as of the exchange of information obtained during the performance of the inspection. Hence, it is expected that organizational “remoteness” between Serbian Tax Administration and other bodies performing inspection supervision will be considerably reduced in future, particularly in the fields important for countering shadow economy. These cooperation possibilities are further expended by the fact that the scope of the activities of the Coordinating Committee for inspection supervision is operationally divided among work groups in charge of specific fields, - in the context of

countering shadow economy, the most significant being the work group for countering informal labor and the work groups for the control of tourism and hospitality, transport of goods and passengers and the work of non-government organizations. By including a large number of Tax Administration representatives, some of them even being high ranking officials, in the work of the most Coordinating Committees work groups, the forms of jointly coordinated actions of Tax Administration and other inspection bodies have been raised to a considerably higher level, with particular focus being placed on the activities aimed at eliminating black market labor practices.

In addition to legislative shaping of the general system of public policy planning, the efficient demolition of the shadow economy “fortress” also requires a precise allocation of institutional responsibilities for achieving this aim, with the acknowledgement of the fact that the overlapping of jurisdictions of the state bodies performing the tasks of inspection supervision should contribute to their more efficient work and not to blurring lines of responsibility. In a general sense, delineation of the jurisdiction “zones” of the Tax Administration and other administrative bodies performing the tasks of inspection supervision is to a great extent based on the trends of shadow economy. High level of tacit systematic tolerance of various models of illegal activities of business entities represents fertile ground for *unregistered shadow economy* thriving, which is basically considered as permitted economic activity but entirely outside the control mechanisms of public bodies. Facing this form of shadow economy manifestation, the operative capacity of Serbian Tax Administration remains rather limited by the underlined jurisdictions of other administrative bodies (before all, the labor inspection and, to a less extent, the market inspection departments) leading the process of transforming the unregistered economy into “visible” economic transactions. On the other hand, the possibilities of Tax Administration to tackle, in operative sense, the illegal activities of business entities are increased in situations when they are manifested in the form of *illegal shadow economy*. This manifestation of shadow economy assumes illegal activities the taxpayers resort to in performing their *registered* business (Feige, 2007, P. 17), which in practice is more suitable for activating standard procedural instruments of tax control.

Conclusion

Although the Law on inspection supervision foresees the process of harmonization with specific laws, the tax control procedure has not sustained significant changes. Specific laws do not regulate the matter of inspection supervision in general; however, when a specific inspection control is required, as in case of tax inspection, specific laws provide different legal solutions. Tax control is a very important function which should not be understood as an act of mistrust, but rather as an act of accountability. The method and procedure of performing tax control are aimed at enhancing taxpayers’ discipline and awareness of their contribution to public revenue, as well as at identifying those taxpayers who intentionally and purposely violate laws by avoiding to report income and pay tax. The legality of business activities is ensured by inspection supervision, mostly by its preventive function, which was the purpose of the law adopted in 2015. It is believed that it is more efficient to undertake measures aimed at preventing irregularities than to implement repressive action when they occur. However, in the Republic of Serbia, the preventive function of tax control is less

applicable, while the repressive measures seemed to be more effective for Serbian taxpayers. This can be confirmed by the fact that the law defines taxpayer's obligations, as well as the sanctions for the obligations that have not been fulfilled. In future, more attention should be paid to the application of preventive measures in order to make tax control more acceptable as a form of positive cooperation between Tax Administration and taxpayers.

The provisions which regulate the inspection supervision of unregistered entities foresee some exceptions from the general supervision regime. When dealing with this kind of entities, it is important that the inspection body which has identified an unregistered business activity is also authorized to pass a decision with proposed measures and inform the tax inspection about their existence. In this way, tax body will be able to register a new taxpayer and reduce the number of illegal business entities. It is important to note that more intensive inspection supervision will not contribute to eliminating the shadow economy, but would definitely assist in channeling illegal activities into legal economic flows. The introduction of covert shopping as a new form of inspection supervision shortens the procedure and makes it easier to obtain necessary evidence that the entity is not registered or that it does not issue invoices. This sends a clear message to all entities who operate in a “grey zone” that their illegal activities will be prosecuted.

All inspection bodies should maintain their controlling role, but the preventive measures seem to be far more efficient for creating a favorable business ambient. Therefore, they should be more frequently applied in work with taxpayers and then, if necessary, include corrective and repressive measures. In this way the tax control would not be viewed as a negative undertaking since the primary goal is to make business entities understand the advantages of legal operations. However, the beginning of the application of the systematic framework of inspection supervision cannot change the fact that in the burning fields of shadow economy, the current arrangement of division of jurisdictions between Tax Administration and other bodies performing inspection supervision does not take into account the actual capacity of these bodies to truly solve the problem they are institutionally focused on. The attempts to make improvements in this field call for the need to reevaluate institutional by-laws regulating the jurisdictions of separate inspection bodies. In this context, it is important to analyze the possibility to expand the scope of jurisdiction of Tax Administration related to the activities which are directly or indirectly aimed at increasing the economic substance generated in the shadow economy that will be subject to taxation. In this way, national mechanisms of tax control would not be so far away from the “sources” of illegal tax evasions which business entities resort to, as it is the case with the current institutional arrangement.

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