

**Streszczenie rozprawy doktorskiej mgr Filipa Majdowskiego / j. angielski / pt.**

**„Fiscal status of controlled foreign entity in income tax.”**

The subject of the doctoral dissertation is the issue of controlled foreign company (CFC) regulations. CFC regulations are an important legislative tool allowing to prevent the legal relocation of taxable income to countries with low taxation by obliging the amounts corresponding to the transferred income to be claimed back to the tax base of the taxpayer (the controlling person).

The basic research thesis of this dissertation is based on the statement that there is a significant regulatory deficit under the current Polish CFC regulations. The construction of these provisions does not ensure an effective mechanism to prevent tax avoidance using the CFC construction due to the numerous structural defects and legal gaps, which in turn may expose the state budget to significant losses due to reduced tax revenues. The author's identified the very basic twenty five such defects and gaps.

The other thesis to demonstrate was that the Polish Constitution as well as the Polish double tax treaties do not generally introduce restrictions on the applications of the Polish CFC regulations. The author aimed to demonstrate that the tax justice standard applied in abstract as a measure of the standard of constitutionality, read both in the material and procedural dimension, does not constitute a constraint in the application of CFC regulations in the version envisaged by the current Polish tax laws. As regards the double tax treaties, identical conclusion on lack of the general conflict between the Polish CFC regulations and these treaties has basis in numerous arguments based on the literal interpretation of individual provisions of these conventions, supported by the official OECD's position presented in the Commentary to the OECD Model Convention.

The following thesis of the author was suggestion that even prior to the introduction of Anti-Tax Avoidance Directive (ATA Directive) the EU member states had more leeway in applying the CFC rules to intra-community situations, i.e. where CFCs were located in other member states offering preferential tax regimes. Based on the analysis of the European Court of Justice's verdicts, in particular *the Cadbury Schweppes* judgement, the author tried to argue that fight against abuse within the EU does not to be limited to cases of CFCs constituting wholly artificial arrangements, i.e. non-existent entities in practice. Opposed to common view shared by the public, more proportional approach in the CFC regulations could have been applied and had good legal basis in these verdicts.

The related thesis to prove was that the Polish CFC legislation should not follow the British CFC regime as regards the *quasi*-transfer pricing mechanism of determination of the taxable income of taxpayer (the CFC income), remaining in this respect based on the mechanism originally developed under the American CFC regulations, while the author recommended to implement the American model in full, i.e. switch from the current-in-force transactional-entity approach to pure version of the transactional approach. The latter approach is a more precise mechanism, and hence more proportional to the intended purpose. Finally, based on the above considerations and based on the experience of the OECD from the BEPS Project, the author proposed forty two changes of *de lege lata* and *de lege ferenda* nature to the Polish CFC regulations which would make them more efficient and consistent.

The following research methods were applied in the work - dogmatic method, theoretical method, comparative method, historical-legal method and empirical method. The dissertation contains an analysis of the following basic source materials: legal acts, interpretation of tax law regulations issued by tax authorities, court verdicts, documents of international institutions (the OECD and the EU), legal literature in the form of books, magazines and online articles, historical sources as well results of the research conducted based on the interviews.