

Tax administrators' claim in insolvency proceedings

Abstract

The thesis deals with the claims of the tax administrator in insolvency proceedings. As this is a complex and very broad issue, the thesis focuses on a more detailed analysis of two major cases in which the tax administrator acts as a creditor in insolvency proceedings. Specifically, these are cases where the tax administrator acts as a secured or preferential creditor. The thesis also analyses the data provided by the tax authorities on the basis of questions sent to them.

The thesis is divided into two chapters. The first one deals with the tax administrator as a secured creditor. First, the advantages of the secured creditor status in insolvency proceedings are explained. The substantial part of the chapter is devoted to the creation of the tax administrator's pledge, which differs from the general pledge. The thesis reflects on what tax claims can be subject to a pledge in the context of the new case law of the Supreme Administrative Court. This chapter also explains the possible impact of the commencement of insolvency proceedings on the duration of the pledge. The chapter also deals with the conflict between the Insolvency Act and the Civil Code regarding the order of creation of a pledge and presents possible solutions. The next subchapter describes the concept of a hedge commands and its relation to both the pledge established by the tax administrator and the insolvency proceedings.

A part of the thesis is devoted to the analysis of data provided by the tax authorities, which attempts to generalise and thus characterise in more detail the claims of the tax administrator and to present the practice of the tax administrator related to the exercise of its creditor's rights in insolvency proceedings.

The second chapter deals with the priority claims of the tax administrator, specifically claims arising as a result of VAT corrections by the debtor. First, the development of the statutory regulation which did not allow VAT correction in reorganisation is presented and the mechanism of VAT functioning in insolvency proceedings is also described. The main part of the second chapter characterises the different types of priority claims and then discusses the correct classification of the tax administrator's claim for VAT correction under claims against the insolvency estate or claims equivalent to them. This section deals with the arguments put forward, which it seeks to summarise in a coherent manner and, on that basis, to provide a comprehensive approach to the issue.

Key words: [claim, tax administrator, insolvency proceedings]