

## **Burden of proof in tax administration**

### **Abstract**

The thesis analyses the provisions of the Tax Code that deal with the burden of proof in detail. The first part of the thesis analyses the theoretical background of the burden of proof, with special emphasis on the application of the basic principles of the Tax Code in this area. The thesis aims to examine the impact of these principles on the relationship between the tax administrator and the tax subject during tax proceedings. The second part of the thesis discusses the individual factors for which the burden of proof lies with the tax subject and the tax administrator. In tax proceedings, special attention is given to the relationship between the burden of proof and the burden of statement of the tax subject. When discussing the matters in relation to which the tax subject and tax administrator bears the burden of proof, the work also touches upon the consequences of not bearing it. The last part of the thesis is devoted to the key tool for overcoming the tax subject's failure to bear the burden of proof. The use of tools (in czech "pomůcky") as a secondary method of determining tax liability is a consequence of the taxpayer's failure to bear the burden of proof. The determination of tax liability using tools is characterised by the use of a 'qualified estimate' and a partial resignation to the determination of the correct amount of tax. Instead, the tax authorities use the tools to try to determine the amount of tax as closely as possible to the correct amount. In particular, the thesis focuses on the tax administrator's obligation to establish facts also in favour of the taxpayer and the interpretation of this obligation. The thesis similarly analyses the use of the tax negotiation agreement. In relation to the tax negotiation process, a special attention is given to the consideration of the reliability of the use of tools and possible legislative adjustments in relation to the process of concluding a negotiation agreement.

The thesis aims to introduce the reader to the pitfalls of the burden of proof by means of the above described process of analysis of the partial aspects of the issue. Meeting the burden of proof is a key point in the conduct of tax proceedings and the success of the tax subjects in the proceedings depends on it. At the same time, the burden of proof is crucial for maintaining the cost effectiveness and overall efficiency of tax administration. The practical issues arising from the brief regulation provided by the Tax Code are well shaped by the reasoning of the courts. If the legislator continues to reflect and incorporate these recent conclusions of case law into the Tax Code, the blind spots in the regulation may be resolved, thus improving the orientation of persons involved in tax proceedings on the issue.