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Can General Tax Law Be Stable?

Abstract

The provisions of general tax law contained in the tax ordinance should be stable. In recent years, however, we have seen an intensifying process involving amending this act. An analysis of the changes made proves that they are introduced in connection with the need to counteract tax fraud, the lack of institutions characteristic of modern acts of this type, and the development of new technologies. The continuous modernisation of the provisions of the over-20-years-old ordinance no longer brings the expected results, and in some cases actually leads to the undermining of the fundamental institutions of tax law. There is a need for a new act. Only the adoption of such an act can contribute to the improvement of the stability of general tax law.

Keywords: general tax law, tax ordinance, stability of tax law

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Introduction

Stability of law is one of the prerequisites for the fulfilment of the principle of trust in the state and of the established tax law.[2] Its essence is legal certainty, understood as a set of qualities attributed to a law, guaranteeing legal security to individuals.[3] A good tax law needs to be stable enough to let the taxpayer foresee the tax consequences of the actions they take. Taxpayers should in no way be kept surprised with new regulations causing significant changes to their rights and obligations. Frequent changes, adopted in haste, without a sufficient period of *vacatio legis*, make taxpayers unable to become familiar with and adapt to new regulations.[4] A tax law formed in such a way violates the fundamental canons of decent legislation. Abiding by these canons is particularly important in the case of acts of essential significance to this branch of law, forming the so-called general tax law.[5] One such act is the Tax Ordinance Act, designed to act as a certain "tax constitution".[6] The act, given its position in the system of sources of tax law, should not be modified too often. The stability of general tax law guarantees that the said principle of legal certainty will be followed even if the provisions governing the structure of particular taxes are modified.[7] The analysis of the frequency and the extent of the amendments made to this act in recent years makes it possible to claim that this is one of the most often modified tax acts.[8] The Polish Tax Ordinance was enacted in 1997 as a long-awaited act, intended to codify the general tax law. At first, the act was relatively stable. Its first uniform text was announced in 2005, 7 years after the ordinance

2 A. Gomułowicz, *Zasady podatkowe*, [in:] L. Etel (ed.), *Prawo daninowe*, Vol. III, Warszawa 2010, p. 111.

3 See, among others: Constitutional Tribunal's judgement of 19 March 2007, K 47/05.

4 Grant Thornton's findings presented in the report entitled "Legal Environment Stability Barometer in the Polish Economy" show that Poland's legal system is the most changeable of all legal systems in the entire European Union, http://barometrprawa.pl/#obadaniu (access: 9.12.2019).

5 R. Mastalski, *Prawo podatkowe*, Warszawa 2019, p. 185.

6 Ibidem, p. 194.

7 Ibidem, p. 192.

8 According to Grant Thornton's studies, it appears that in 2018, the biggest number of amendments was made to the Act on Personal Income Tax (101 pages), to the Tax Ordinance (74 pages), and to the Act on Corporate Income Tax (72 pages) http://barometrprawa.pl/wp-content/uploads/2019/02/GrantThornton_barometr_prawa_022019.pdf (access: 9.12.2019).

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came into force.[9] The ordinance saw 34 amendments of various extent made in that time. The next uniform text was announced in 2012.[10] Upon analysing it, we can find that the number of the amendments made slightly increased (40 amendments). The next uniform text appeared in 2015, featuring 19 amendments.[11] The next uniform version of the text is published in 2017, after 18 amendments were made.[12] An increased rate of amendment of the ordination is clearly noticeable. This is proven by the publishing of the next uniform text[13] (9 amendments) and yet another uniform text (19 amendments) of the ordinance in 2019.[14] Since the last version of the uniform text appeared in May 2019, the ordinance has already been amended 14 times, which justifies drawing up another version thereof. The increasing frequency of amending the act in question in recent years also makes it grow in volume. In 2015, its page count was 104, and in 2019 – even 165.[15] There is no need to stress that both of these phenomena cause many negative effects at the stage of both the application and interpretation of the law. In such circumstances, it is not only taxpayers but also tax authorities' employees who may find it difficult to keep up to date with the ever-changing provisions. Why is this so? The aim of the article is to identify the reasons behind the increasingly frequent amendments to the general tax law. This will serve as the basis to propose measures to counteract this negative process.

Counteracting the waiving and avoidance of taxation as a reason for frequent amendments to the tax ordinance

An analysis of the increasingly frequent amendments made to the tax ordinance in recent years leads to an observation that one of the main reasons behind those amendments is the range of measures undertaken to counteract tax abuse. The need to limit aggressive tax optimisation and tax fraud justifies the adoption of many instruments designed with this purpose in mind. It is important to bear in mind that most of the new regulations had to be implemented into the Polish tax law

9 Journal of Laws of 2005 No. 8, item 60.

10 Journal of Laws of 2012, item 749.

11 Journal of Laws of 2015, item 613.

12 Journal of Laws of 2017, item 201.

13 Journal of Laws of 2018, item 800.

14 Journal of Laws of 2019, item 900.

15 See: the uniform text of the Tax Ordinance in the Journal of Laws of 2015, item 613, and the uniform text in the Journal of Laws of 2019, item 900.

due to the requirements of the EU law.[16] The new solutions adopted in the years 2016–2019 include: a clause against the avoidance of taxation (section IIIa chapters 1–4); counteracting financial sector abuse aimed at gaining tax benefits under false pretences (section IIIb); additional tax obligation (section III chapter 6a); information about tax schemes (section III chapter 11a), reversal of the effects of tax avoidance (section IIIa chapter 5). These are completely new institutions, previously absent from the act. The problem with the adoption of new regulations involved e.g. their placement in the old framework of the act. Another problem was that these provisions were quite extensive.[17] The outcome was not very good, an example of which can be Art. 119–119zzk, which regulates the principles of adjustment of the value of tax lien, the clause against tax avoidance, and the functioning of the system of the automated clearing house. The result of these amendments is a patchwork of dissimilar regulations concerning three disparate institutions. The provisions continue to be modified, which makes it even more difficult to understand them correctly. This, in turn, calls for further amendments. It is a self-propelling mechanism making provisions adopted in haste and featured at random function incorrectly, which calls for further improvement thereof. Further changes lead to a growing number of provisions regulating a given institution. Regulations become increasingly "voluminous" and case-based, which surely enhances the likelihood of their further "improvement".

Similar problems also occur in the case of the recently implemented regulations concerning information about tax schemes (Art. 86a–86o of the Tax Ordinance). They pertain to a complex procedure of submitting information about the ways of avoiding and evading taxes to the Head of the National Revenue Administration. These are provisions regulating the phenomena and processes connected with conceiving and implementing new ideas aimed at gaining various tax benefits. These regulations must therefore naturally keep up with the changing legal-organisational forms of tax avoidance. They have to be thus adapted to the changing

16 Council Directive (EU) 2016/1164 of 12 July 2016 laying down rules against tax avoidance practices that directly affect the functioning of the internal market (OJ EU L 193 of 19.07.2016, p. 1) and Council Directive (EU) 2017/952 of 29 May 2017 amending Directive (EU) 2016/1164 as regards hybrid mismatches with third countries (OJ EU L 144 of 7.06.2017, p. 1); Council Directive (EU) 2017/1852 of 10 October 2017 on tax dispute resolution mechanisms in the European Union (OJ EU L 265 of 14.10.2017, p. 1); Council Directive (EU) 2018/822 of 25 May 2018 amending Directive 2011/16/EU as regards mandatory automatic exchange of information in the field of taxation in relation to reportable cross-border arrangements (OJ EU L 139 of 5.06.2018, p. 1).

17 For instance, section IIIb – counteracting the financial sector abuse aimed at gaining tax benefits under false pretences is 14-page long, section IIIa – counteracting tax avoidance – 13-page long, section III chapter 11a – information about tax schemes – 11-page long, which makes for 1/4 of the entire act.

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procedures of perpetration of tax fraud and abuse, which means they have to be amended and updated on an ongoing basis. The drawbacks of these regulations, in many cases not attributable to the legislator, may be removed only by way of amending the act. This, in turn, means the initiation of the said self-propelling mechanism of improvement of the provisions of the tax ordinance.

The above findings are proven in the provisions governing the clause against avoidance of taxation (Art. 119a–119zfn). They entered into force on 15 July 2016 and were modified already one year later, with the modifications including the essential elements of the clause's structure.[18] Their adoption significantly increased the volume of the existing body of provisions and exacerbated the disputes over their interpretation.[19] In this case it also quite likely that the revision of these provisions in practice will lead to further amendments. In addition, we should bear in mind the fact that they become increasingly case-based. In Poland, a clause against avoiding taxation was introduced effectively for the first time by way of the Act of 12 September 2002.[20] Pursuant to Article 24b of this Act, "the tax and fiscal audit authorities, when examining tax cases, shall omit the tax effects of acts in law if they prove that the performance of such acts could not have led to other significant benefits than those resulting from a reduction of the amount of a tax obligation, from an increase in one's loss, from an increase in overpayment, or from a tax refund." The content of this clause, not different from those adopted in other countries, was questioned after its short-lived term by the Constitutional Tribunal (CT) in its judgement of 11 May 2004 (K 4/03). The CT considered its provisions to be too general. At present, the clause is regulated across 50 articles. It is no longer a general clause, but an extensive and detailed body of provisions covering the effects of the avoidance of taxation. The legal shape of these provisions is subject to further modifications given their need to "keep up" with the evolving forms of tax avoidance. It will surely have a negative impact on their stability.

The discussion so far makes it possible to claim that extending the Tax Ordinance by a whole range of provisions tightening up the tax system is one of the main reasons for its instability. The specific nature of these provisions, connected inseparably with the changing forms and methods of avoiding taxation, calls for their frequent modification. This has a negative effect on the stability of the Tax

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18 Act of 23 October 2018 on the Amendment to the Act on Personal Income Tax, the Act on Corporate Income Tax, the Tax Ordinance Act, and Certain Other Acts (Journal of Laws of 2018, item 2193).

19 See: W. Nykiel, *Nowe przepisy dotyczące klauzuli przeciw unikaniu opodatkowania – wybrane aspekty legislacyjne*, [in:] J. Głuchowski (ed.), *Współczesne problemy prawa podatkowego. Teoria i praktyka. Księga jubileuszowa dedykowana Bogumiłowi Brzezińskiemu*, Vol. I, Warszawa 2019, pp. 387–390.

20 Journal of Laws of 2002 No. 169, item 1387.

Ordinance. The solution to this problem is, as I believe, to transfer these provisions from the Tax Ordinance to a separate act (or separate acts). This is motivated by the need not only to protect the stability of the Tax Ordinance but also to arrange for a comprehensive and transparent regulation of matters concerning combating tax abuse in a separate act. The old structure of the Tax Ordinance does not allow it. These extensive provisions, forced into the Ordinance, become very difficult to apply and interpret.

The solution is also supported by the extent and the substance of the new regulations. These are complete institutions of tax law, forced into the content of the old Act. The provisions regulating the clause against the avoidance of taxation, the IT system of the clearing house, or the reporting of tax schemes regulate the said fields sufficiently. Therefore, in accordance with the requirements of the principles of legislative technique (§ 2), they should be included in a separate act. The result of the fact that they are featured in the Tax Ordinance is that there are e.g. three act-related glossaries. The first of them is found in Art. 3 (section I – General provisions), the second – in Art. 86a (section III – Tax obligations, chapter 11a – Information about tax schemes), and the third – in Art. 119zg (section IIIB – Counteracting the financial sector abuse aimed at gaining tax benefits under false pretences, chapter 1 – General provisions). This is probably the most noticeable effect of 'pasting' regulations that should become a separate act (or separate acts) into the old tax ordinance.

The argument for including the analysed institutions into the substantive scope of the tax ordinance involves a claim that they are a part of the general tax law. If so, they should be regulated in the Ordinance, which has been designed as a form of codification of the general tax law. The legitimate demand for including all the provisions of the general tax law in the Ordinance may not be met due to the effects it will cause. And it is these effects which determine whether a given institution of the general tax law may be incorporated in the Ordinance. A good example is the provisions regulating the exchange of tax information. In 2017, the Tax Ordinance had its section VIIa – Exchanging tax information with other states – removed. The subject matter was regulated in its entirety in the Act of 9 2017 on the Exchange of Tax Information with Other States.[21] The solution met with the approval of e.g. the Codifying Commission of the General Tax Law, working on a new draft Ordinance at the time.[22] The new Act consists of 111 articles (38 pages). There was absolutely no point to force the provisions of the old act into the ordinance only because they were general tax law provisions.

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21 Journal of Laws of 2017, item 648 as amended.

22 See: L. Etel et al., *Ordynacja podatkowa. Kierunkowe założenia nowej regulacji*, Białystok 2015, p. 19.

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Recently, the legislator noticed the need to extract the provisions that should be regulated in separate acts from the Tax Ordinance. In October 2019, changes were made in the scope of agreements concerning arranging transfer prices.[23] Section IIa of the Ordinance was removed, and the principles of making agreements on the arrangement of transfer prices were regulated in a new act. This fits well into the fulfilment of the demand for extracting institutions aimed at 'sealing' the tax system in broad terms from the Tax Ordinance. In this context, removing regulations concerning the obligatory submission of SAF-T documents with VAT records from the ordinance shall be considered a wise choice as well.[24]

The need to incorporate new institutions of tax law into the Tax Ordinance as a reason for frequent amendments to the tax ordinance

Another reason behind the instability of the Tax Ordinance is its lack of institutions typical of codified elements of the general tax law. For objective reasons, the Act passed in 1997 could not include regulations characteristic of modern-day acts of this sort. One such institution is the general principles of tax law. When the guidelines for the Ordinance to enter into force were drafted, neither the judicial practice nor academia offered clear principles which could be treated as fundamental in the case of tax law. Now, we can speak of a developed listing of fundamental directives of procedure, defined as the general principles of tax law.[25] They should be included in the Tax Ordinance, which is called for in the literature on the subject.[26] To some extent, these principles are articulated in the act in force, i.e. in section IV – Tax proceedings (Art. 120–129) and in section I – General provisions (Art. 2a). They are featured in section IV of the Ordinance in place because they have been transferred from the Code of Administrative Procedure (CAP), which has also regulated the tax procedure since 1998. It was obvious from the start that it was

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23 Act of 16 October 2019 on the Resolution of Disputes over Double Taxation and the Execution of Advance Pricing Agreements (Journal of Laws of 2019, item 2200).

24 According to the statement of reasons for the act of 4 July 2019 on amendments to the Goods and Services Tax Act and Certain Other Acts (Journal of Laws of 2019, item 1520), in connection with the principles of the new system of VAT settlements, VAT records shall be submitted together with the declaration, which means it was necessary to revoke the obligation to submit JPK_VAT documents, as specified in the current Art. 82 § 1b and § 2d of the Tax Ordinance.

25 See: B. Brzeziński, W. Nykiel, *Zasady ogólne prawa podatkowego*, "Przegląd Podatkowy" 2002, 3, p. 9; L. Etel et al., *Ordynacja podatkowa*..., pp. 41–49.

26 L. Etel et al., *Nowa ordynacja podatkowa. Z prac komisji Kodyfikacyjnej Ogólnego Prawa Podatkowego*, Białystok 2017, p. 73.

not the best place to feature them, but since there were no 'mature' general principles of tax law, decided decision was taken to formulate the principles of tax proceedings imitating the listing included in the CAP.[27] Hence the decision to feature them in the section governing tax proceedings. For these reasons, the list of principles present in section IV is fragmentary and does not encompass all of the general principles of tax law. And this is where problems arising from the need to incorporate general principles into the Tax Ordinance appear. This cannot be done by extending the existing list since this is about general principles of the tax proceedings. The general principles of tax law should be included in section I – General provisions, as provided for by the principles of the legislative technique (§ 21). The legislator adopted such a solution by introducing the principle of resolving doubts in favour of the taxpayer in 2015. It was featured – as the only general principle of tax law – at the beginning of the Ordinance, in Art. 2a. This resulted in some of the general principles of tax law being regulated in Art. 120–129, and one of them – in Art. 2a. It is clear that this is not a good way to regulate one of the most important institutions of tax law. It is vital to see that only one general principle of tax law has been incorporated into the tax ordinance, disregarding the remaining – equally important – principles. Those that failed to be included in the ordinance were e.g.: the principle of pragmatism, the principle of cooperation, the principle of proportionality, the principle of balancing a legitimate interest of a concerned party and public interest, the principle of amicable settlement of disputes, the principle of resolving doubts regarding facts in favour of the taxpayer.[28] These principles should be incorporated into the Ordinance sooner or later. There is no explanation for the current situation, where some of these principles are normative and others are not, without any clear reason. Compiling a list of all general principles of tax law (including tax proceedings) and incorporating these principles into the general provisions of the Tax Ordinance seems to be a reasonable solution. But this may not be done within the framework of the current ordinance, where the principles are divided into two groups, with some of them (e.g. the principles of legalism or of trust) belong to both. A complete list of principles of tax law may be included in the tax law system only in a new Tax Ordinance. Rejecting this procedure may lead to the partial incorporation of individual principles into the current Ordinance. This means further amendments, which will result in the consolidation of an in-

[27] The principle of legalism, of trust, of provision of information, or of convincing may not hold – as suggested by its placement – only on the grounds of tax proceedings (audit activities and tax inspections). Abiding by these principles is also necessary in all relationships occurring between a taxpayer and a tax authority, not only within the framework of the conducted proceedings.

[28] The principles are discussed in detail in: L. Etel et.al., *Nowa ordynacja podatkowa*..., pp. 73–100.

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herently incorrectly constructed list of the general principles of tax law. These amendments are inevitable also due to the fact that general principles have recently been adopted in the Entrepreneurs Law Act, becoming significantly modified in the CAP.[29] Some of these new general principles included in the said acts should be also featured in the Tax Ordinance. And so, the principle requiring authorities not to abandon the consolidated practice of settling cases in the same factual and legal circumstances is already in force under the said acts, but is at the same time absent from the Ordinance.[30] As a result, the principle can be quoted by taxpayers--entrepreneurs referring to the Entrepreneurs Law Act when dealing with a tax authority. Other taxpayers may not do so because the principle is not present in the Tax Ordinance. The case is similar with the principle of proportionality, the principle of the amicable settlement of disputes, and the principle of resolving doubts regarding facts in favour of the taxpayer. There are no significant arguments against incorporating them into the Ordinance, which has actually been long called for by tax law science practitioners.[31] The absence of these principles in the current Tax Ordinance is a flaw which can be removed only by adopting a new ordinance. No good results can be achieved if further amendments are made to the existing Ordinance. In order to make the tax law in force stable, it is necessary to organise the list of the general principles of tax law, and this can be done by adopting a new act.

Another example of institutions missing from the Tax Ordinance in force is the so-called non-regulatory forms of handling tax cases.[32] At present, it is common to underline the utility of agreements and other forms of conciliatory action in the relationships between taxpayers and tax authorities.[33] This has drawn the attention of the legislator, who has decided to incorporate provisions governing cooperation agreements into the Tax Ordinance.[34] As in the case of the general principles of tax law, it is an action that is well intended, but not sufficient. The Ordinance features only one of the many demanded non-regulatory forms of activity of the tax

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29 Art. 8–16 of the act of 6 March 2018 – Entrepreneurs Law (Journal of Laws of 2018, item 646) and Art. 6–16 of the Act of 14 June 1960 – Code of Administrative Procedure (uniform text in the Journal of Laws of 2018, item 2096).

30 See: Art. 8 § 2 of the Code of Administrative Procedure and Art. 14 of the Entrepreneurs Law Act.

31 B. Brzeziński, *Kierunki zmian przepisów ogólnych ordynacji podatkowej*, "Kwartalnik Prawa Podatkowego" 2001, 3–4, p. 33 et seq.

32 P. Pietrasz, J. Siemieniako, E. Wróblewska, *Czynniki zmniejszające rolę władczych forma działania administracji skarbowej w realizacji zobowiązań podatkowych*, Warszawa–Białystok 2013, pp. 85–92.

33 L. Etel et al., *Ordynacja podatkowa...*, pp. 56–66.

34 Act of 16 October 2019 on the Resolution of Disputes Over Double Taxation and the Execution of Advance Pricing Agreements (Journal of Laws of 2019, item 2200).

authorities.[35] There is no mention of mediation and tax agreements. Plus, it is unclear why the legislator introduces cooperation agreements and tax agreements concluded within their framework and ignores mediation and agreements concluded within its framework. There is a number of arguments for the introduction thereof.[36] As a result – as one should presume, these forms of the conciliatory handling of cases will eventually be incorporated into the Tax Ordinance, but as further amendments. And this is where we should return to the conclusions drawn in reference to the procedure of creation of the list of the general principles of tax law. The matters connected with non-regulatory forms of activity of the tax authorities should be regulated holistically, which is possible in a new tax ordinance. Incorporating only some of these forms into the existing Tax Ordinance over time and partially has nothing to do with decent legislation.

Development of means of electronic communication as a reason for frequent amendments to the Tax Ordinance

The reason behind the frequent modifications of the Tax Ordinance is also the development of technology, especially the electronic means of communication between the tax authorities and taxpayers. Soon, this inexpensive and convenient method of handling tax cases will replace the still common paper-based summons, declarations, decisions or interpretations. The development of the available means of electronic communication makes it necessary to incorporate them into the old Tax Ordinance, which, again, takes the form of frequent amendments. Without downgrading the objective reasons for the modifications made, the form thereof can be questioned. First, it is necessary to determine whether the problems involved in switching from paper-based communication to electronic communication need to be solved by way of never-ending amendments to the Ordinance. It is a global process, typical of not only tax authorities but also of the entire public administration. Right now, the introduction of personal signatures into the legal system necessitates amending a number of acts, regulating various relationships between the public administration and the concerned parties.[37] This is so because personal signatures may be applied in each of these acts. If another convenient method to

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35 H. Filipczyk, *Program poprawnego rozliczenia opartego na współpracy (cooperative compliance) jak instrument zwalczania unikania opodatkowania*, "Kwartalnik Prawa Podatkowego" 2014, 1, p. 7 et seq.

36 L. Etel et al., *Nowa ordynacja*..., p. 487 et seq.

37 Act of 06 December 2018 on the Amendment to the Act on Personal Identity Cards and to Certain Other Acts (Journal of Laws of 2019, item 60).

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identify and authenticate the identity of parties to proceedings appears, amending all of these acts accordingly will be necessary. To prevent this situation from occurring, a separate act should lay down the principles of communication between publication administration – including the tax authorities – and other parties and customers. The matter could be thus regulated in a "special" act in a comprehensive and uniform manner for the entire administration system. This would benefit not only the discussed stability of these acts.

The need to redesign some institutions completely as a reason for frequent amendments to the tax ordinance

For the last 20 years, the legislator has been trying to mitigate the effects of the provisions of the tax ordinance becoming outdated by continuously amending them. In most cases, the amendments have contributed to the adaptation of the Act to current problems connected with the application of its provisions. The dynamics of the changes taking place in recent years, especially in the domain of the economy, are so big that the said method of improving the Tax Ordinance does not always yield the best results. The extent of these changes, their frequency, and the way they are introduced have in some cases damaged the institutions regulated in the ordinance. One such example can be the regulations concerning the expiry of tax liability. Today, a tax liability is supposed to expire 5 years after its payment deadline, but this may actually never happen. This is so because the Ordinance allows for interrupting the course of the period of limitation many times by applying an enforcement measure. The course of this period may be also suspended – with no time restrictions – as a result of instituting proceedings under the Fiscal Offences Act, as decided by the head of a given tax office. Changes made to this institution have led to the situation that despite the statutory 5-year period of limitation, decisions determining the amount of one's tax liability are issued even after more than a dozen years. These are arguments calling for modifying the principles of expiry of tax liability. This can no longer be done through further incidental modifications. The regulations governing the institution of expiry need to be written anew.

The case is similar in terms of overpayment. The principles regulating this institution do not work as they should, and they cannot be improved by way of modification of the regulations in force. Dozens of amendments made thereto have made their structure overly complex. And yet further modifications are necessary. If only for the need to determine whether a taxpayer who has not incurred the economic burden of tax (i.e. transferred this burden onto a consumer) may legitimately claim a refund of tax overpayment. The problem needs to be solved on a statutory level,

but this may not be done by changing the provisions in force. And it is not about the demanded stability of the ordinance, but about a rational form of new regulations.

Conclusions

Over 20 years has passed since the adoption of the Tax Ordinance. An objective observation is that this act "is aging".[38] The process can be seen in the increasingly frequent amendments caused by the circumstances referred to above. It is important to stress that most of them are of an objective nature. Poland's membership in the EU, the development of new technologies, the need to combat tax fraud, the absence of institutions typical of contemporary acts of this type, or the need to substitute ineffective solutions in changing social-economic conditions justify the amendments made by the legislator to this act. Reservations can be made about the manner in which the ordinance is amended and about the positioning of new regulations.

The main conclusion to be drawn from the presented analysis is that there is a real need for the adoption of a new Tax Ordinance. The existing act can no longer be improved by means of increasingly frequent and extensive modifications of its content. Only a new Act is able to regulate the number of institutions which are now absent or only partially regulated. This is not just about the quoted examples of the general principles of tax law or non-regulatory forms of handling tax cases. An entire range of new regulations exist that should be incorporated into the general tax law.[39] Likewise, only a new Act makes it possible to redesign the fundamental institutions of general tax law, the practical application of which causes more and more problems. The suggestions in this scope have already been formulated in the new draft Tax Ordinance.[40]

The new Act should not feature provisions that tighten up the tax system. Their nature and association with the ever-changing forms of evasion of taxation imply that they should be extracted from the Tax Ordinance and regulated in their entirety in a separate act.

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38 See: B. Brzeziński, *Ordynacja podatkowa w świetle kryteriów oceny jakości aktów normatywnych*, [in:] R. Dowgier (ed.), *Ordynacja podatkowa. Wokół nowelizacji*, Białystok 2009, p. 17.

39 They are covered in the explanatory statement to the government's draft Act – the Tax Ordinance (Sejm paper no. 3517), http://www.sejm.gov.pl/sejm8.nsf/PrzebiegProc.xsp?id=CE-6B73E53195B2C9C1258417003990D4 (access: 9.12.2019).

40 They are discussed in: L. Etel et al., *Nowa ordynacja...*, pp. 28–41.

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The principles of functioning of the means of electronic communication should be regulated in a separate Act as well. These principles should be defined for the entire public administration, not just for tax authorities.

To answer the question of whether general tax law can be stable, it needs to be acknowledged that it can, but this requires substituting the existing Tax Ordinance with a new Act, modified in its substance. An alternative solution is to keep on "improving" the current Ordinance, the result of which may be a need to develop several uniform texts within one year.