

# The level of legal consciousness tax costs related to the customs and administrative enforcement proceedings

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**Abstract** The aim of the article is to introduce the complexity of relationships between the sectors in the procedural tax law, customs and administrative proceedings regarding the enforcement procedure and its regulations. The tax foreclosure procedure is a legal process, which is indeed relatively independent, specific and a relevant equivalent to legal proceedings, but which also has several features in common with other types of legal processes, such as the customs or administrative enforcement proceedings on the basis of which the applicable analysis notes legislative specifics with the same excursion due to their alternative actions. It also examines the relationships between similar and at the same time connecting characteristics.

**Key words** Tax regulations, tax execution regulations, toll regulations, toll execution regulations.

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## 1. Relations between tax regulations and toll regulations

The term "procedure" should be generally understood an act (procedure, process) to be implemented in order to achieve the objective pursued . If one is associated with this procedure the effects of legal relevance (significance) towards achieving the legal consequences which the law associated with the expressed declaration of intent, it is the action or process of a legal nature ( Girašek, 1981) .

In the legal literature, the term "process" means the procedure of certain legal entities, leading to the achievement of the legal outcome. This procedure is governed by a rule of the law have certain specific position, these standards refer to as "standard process "as opposed to" substantive standards".

Tax procedures and customs clearance form subsystems of that system - the legal process. While customs clearance is de facto jurisprudence unanimously ranked among the subspecies of the administrative procedure, the tax proceedings such a unity of views there. The representatives of the jurisprudence of administrative law and science are quite frequently encountered with the view that the tax proceedings is a subspecies of the administrative procedure ( Mrkývka 2004) respectively a part of the administrative procedural law ( Ševčík, 2009) .

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At the legislative level can be between customs clearance and tax proceedings, since several of the institutes are treated equally, only to find a relationship of similarity. Thus, regulation of tax proceedings, as well as the rules of customs clearance, are not contained in a single act, but in various technical legislative motives. Specific procedural issues are governed even in its tax laws, ie in relation to the substantive question ( eg date of filing the tax return , tax maturity , etc. . ).

Editing procedural questions of a general nature is contained in one common legal standards, because it would not be appropriate to repeat them in each tax law ( Pauličková et al . , 2009). Relationship customs clearances and tax proceedings in the area of legislation could be seen as the comprehensive assessment of the legislative structure relationship of customs clearance and customs enforcement proceedings , tax procedure and tax execution procedure and correlation customs enforcement proceedings and tax enforcement proceedings .

According to the Tax Code the tax execution procedure is defined as a procedure in which the tax ex officio recover delinquent tax , pecuniary imposed by the decision, enforcement costs and cash expenses ( § 88 paragraph . 1 Tax Regulations ) . In the field of legal science is indeed possible to encounter that the tax execution procedure is part of a tax ruling ( Balko , Zajac, 2005)

Tax proceedings under Babčák ( 2008 ) is a specific legal concept of tax law, which was introduced in the first place in order to implement substantive tax and legal relations. Procedural rules of tax law provides for procedures for tax administrators, taxpayers and others, which seek a determination or levying taxes, the payment of the tax if the eventual recovery in the form of tax execution, unless the taxpayer has not complied with its tax obligations properly and on time. Said process, however, is much more complex than would be as the general characteristics of the indicated may seem. The tax in tax proceedings has a range of privileges, which acts on the taxpayers in the direction of meeting their tax obligations. Hereby authorized on the other hand correspond to the procedural obligations of taxpayers, without a legal refuge, where the right and timely taxes removal impossible. This does not mean that tax administrators have only the privileges and taxpayers have provided only obligation. Even administrators taxes imposed procedural rules of law more responsibilities while providing taxpayers also legal means by which they can protect their rights and legitimate interests.

In general procedural approach outlined tax administrators and taxpayers, if necessary, and other persons seeking to correct and timely payment of taxes is made in the tax procedure. The purpose of the tax procedure is to ensure that each tax by the relevant substantive tax and legal standards was delivered on time and within a set amount assessed and paid. To ensure this purpose must be procedural approach competent authorities towards its achievement, regulated in detail. Tax proceedings are relatively independent, and equal specific types of legal processes which are governed by the procedural rules of law which falls within the area of tax law. Currently, it owns a solid and indispensable place in the hierarchy of regulatory law proceedings. Tax conduct passes from its commencement to the termination charge certain well defined time and content sequence, which divided into preparatory and pick-examination proceedings.

Tax proceedings can be defined as process managers taxes, taxpayers and third parties involved in the procedure for issuing, reviewing and implementing individual tax and legal acts, which governs the procedural tax and legal standards. The tax procedure is to determine and collect taxes so that tax revenues be shortened ( Boněk et al . , 2001). Tax administrators, taxpayers are required for its implementation to proceed in accordance with the rules - principles of the tax case: legality, close cooperation of the tax authorities and parties, free evaluation of evidence, closed up procedure, officialdom, disposition, costs of informality, equality procedural status of taxpayers,two-step, document , preserve tax secrecy and material truth .

Tax proceedings are in addition to the budget process with the best possible law regulated the procedure carried out by financial authorities. Tax proceedings as a summary of the legal practice of the tax authorities, under which decides on the rights and obligations of taxpayers, is part of the administration. We understand her particular identification and registration of taxpayers and their search, verification of documents necessary for the proper and complete detection of taxes, tax procedures, tax control, recording taxes and advances, including the settlement of tax overpayments and tax arrears, tax enforcement proceedings and other activities directed towards the tax authorities to protect the interest of the State to levy tax on time and pay it to the relevant public budget ( Rabbit et al . , 2001) .

Tax enforcement proceedings are proceedings of the tax authorities, in which ex officio recover delinquent tax, pecuniary imposed by the decision, enforcement costs and reimbursement of expenses. It is a legal term that defines the Law on Tax Administration. It should be added that the concept of tax execution procedure is characterized in the relevant sections of this act, the fact that the provision is missing, the fact that these proceedings ex officio. I am of the opinion that the legislature did not act in one twice actually define the same concept, and yet with such deviations.

Customs clearance is governed by several regulations primarily because of systematic customs legislation, particularly legislation of the EU, which, because of the division of competences between the EU institutions and taking into account the administrative and time requirements of each species Union's legislative process, include the Council of the Commission Regulation. It is also updated some procedural issues explicitly delegated to Member States, which is located in the Slovak Republic in the Customs Act and the Administrative Procedure alternative. Only relationship subsidiarity Administrative Regulations to the Customs Act can be compared to the relationship between tax policy and substantive law governing the various tax laws.

In the most general level clearance mark as one of the types of relevant legal proceedings that are an integral part of a major social phenomenon, which we refer to as the legal process (Babčák, 2006) . According to P. Mrkývka, referred specify so that it is the administrative process acting to addressees outside the customs authority and the individual seeking to obtain financial and legal (administrative) of the Act. Regards the relevant legal procedure regulated mainly by secondary sources of EU, which are in accordance with Art. Paragraph 7 . 2 of the Constitution of the Slovak Republic directly applicable and binding on the Slovak Republic. Customs procedures, however, involve not only the process of customs, but also process natural or legal persons, whose rights and obligations in the proceedings and decisions are from the title of the declarant. ( Babčák, 2008) .

It should be noted that the legislative relationship to the plane of the implementation translates are extremely rare. "Not always after customs clearance automatically follows the customs enforcement proceedings. If the participant customs procedures (eg declarant or his representative) duly and timely fulfill its obligations, the office begins customs enforcement proceedings ( Prievozníková, 2008).

Customs clearance is therefore understood as a procedure in which the rights and legally protected interests or obligations of persons in import, export or transit of goods decided by the customs authority (Rabbit et al., 2001). The purpose of customs clearance is to decide whether and under what conditions the goods under the proposed regime, or it is assigned a customs-approved treatment proposed. It starts with the filing of the declaration proposing the goods released, or another customs-approved treatment. The Customs Office shall not release the goods from the proposed scheme, if:

- customs debt incurred by adopting the written declaration is not satisfied or secured, except for temporary admission with partial relief from import duties,
- customs debts which ensure customs office requested is not provided,

- if the customs office doubts about whether the imported goods are not subject to prohibitions and restrictions, and these doubts cannot be removed before the results are known him inspections conducted.

The customs enforcement proceedings customs office can begin to recover arrears where a customs debt, penalties and other charges assessed and stored under customs regulations were not paid in due time. This issue is closely related to tax enforcement proceedings. Forced implementation of an enforceable title, the purpose of any enforcement proceedings conducted interference in absolute property rights mandatory. Carried out under the conditions and assumptions set out the procedural rules to meet the legitimate claim that he was granted enforceable decision and voluntarily fulfilled. Thus, if the debtor fails to comply voluntarily obligations arising from such decisions. Decision determining the customs debt, the decision on customs offense, the decision on customs offenses, the customs office may proceed to force a requirement by setting up customs enforcement proceedings, those characterized by:

- can be performed only by the customs office which is authorized to perform all legal acts on behalf of the State. Coercive power of the state carries out customs office, which stands for each individual act, using the Act. 511/1992 Coll.
- is carried out ex officio.

Customs clearance is controlled by the principle of officialdom (ex officio), ie ex officio with the application of the principle is unacceptable. Unless the law provides otherwise, the customs office may carry out execution in a manner to be determined. When choosing a method, however, should take into account the provisions of the Act under which the debtor demands transactions should be selected only those remedies which have the least burdensome. In one borrower may be undertaken and execution in several ways simultaneously.

When customs enforcement proceedings apply different methods for performing tax execution under Law no. 511/1992 Coll. The customs office thus by execution:

- deductions from wages and other income,
- garnishment,
- sale of movables,
- Removal ready money and other things for which no sale,
- sale of securities,
- sale of real estate, apartment or office space
- sale of a business or part thereof,
- Disability property rights attached to shares by a shareholder in the company.

The most common way of execution carried out by customs offices can serve a garnishee order. In this method, we distinguish the following methods of execution:

- serve a garnishee order from an account in a bank,
- the attachment of other monetary claims,
- execution disabilities of other proprietary rights.

If a body of customs procedures (eg declarant or his representative) duly and timely fulfill its obligations, the office begins customs enforcement proceedings. However, it should also point out that customs enforcement proceedings I depend on the existence of customs procedures.

Unless the clearance decision on the rights and obligations of entities customs procedure designed to release the goods, imported, exported or transported through the territory of the Slovak Republic for the customs procedure, or assign the proposed customs-approved treatment or use of customs enforcement proceedings regards that the specific obligation enforced if not met voluntarily .

That follows from varying the regularization of those proceedings. Customs Act provides that customs enforcement proceedings are proceedings of the customs office where the customs debt shall be recovered, fines and other payments (§ 61 par . 2, first sentence of the Customs Act ). Considering the definition of the subject and customs clearance, we can conclude that the relationship of customs clearance and customs enforcement proceedings can be defined as a relationship between two relatively independent types of legal process, whose subject matter is different, have different rules for them and are typical of different stages and institutes. It should also be pointed out that the customs enforcement proceedings are fully subject to the provisions of the Tax Code (§ 61 par. 2, second sentence, of the Customs Act) not only provisions contained in Title IV, entitled Tax enforcement proceedings, as well as any other provisions of the Tax Procedure, the application of which is necessary for the proper interpretation and application of the provisions of Title IV. (§ 430 paragraph . 2 of Law no. 238/2001 Coll. Customs Act ).

## 2. CONCLUSION

Within conclusion we can say that in terms of procedural rules is rules of customs enforcement proceedings and tax execution procedure identical. Listed at the same time can be considered an indirect legislative parallels between the customs procedure and tax procedure conditions of placing goods under the customs procedure or another customs approved treatment or use, is shaping the relationship between clearance and customs enforcement proceedings in practice rather exceptional.

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