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COMPETENCE OF THE MUNICIPAL ADMINISTRATION OFFICERS REGARDING THE ASSESSMENT, SECURING AND COLLECTION OF LOCAL TAXES.

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Abstract: *According to Art. 4 of the Local Taxes and Fees Act, Local taxes shall be assessed, secured and collected by municipal administration officers according to the procedure established by the Tax and Social-Insurance Procedure Code. The related acts shall be appealed according to the location of the municipality in whose area the obligation has arisen in accordance with the procedure laid down in the Tax and Social Insurance Procedure Code. In these proceedings, municipal administration officers, determined by order of the mayor, have the rights and obligations of revenue authorities, and in the proceedings for the securing of tax obligations - of public enforcement agents. This is not the case with their competence in proceedings for coercive collection of local taxes. It is carried out by public enforcement agents in accordance with the Tax and Social-Insurance Procedure Code or by judicial enforcement agent in accordance with Code of civil Procedure. The subject of this report is to reveal the specifics of the procedure for assessement, securing and collecting local taxes on the one hand, and the enforcement procedure on the other.*

Keywords: *local taxes, competence, enforcement procedure*

INTRODUCTION

The Tax and Social Insurance Procedure Code regulates the ascertainment, collecting and extinguishment of public claims, part of which are local tax claims. For its part, the Local Taxes and Fees Act contains special provisions regarding these procedures for ascertainment, collecting and extinguishment of public municipal claims. The last stage of the development of the tax relationship is its implementation, which can be voluntary or coercive enforcement. Proceeding for coercive collection of public claims of local tax obligations are carried out by public enforcement agent in accordance with the Tax and Social Insurance Procedural Code or by enforcement agent appointed by the court in accordance with the Civil Procedural Code.

EXPOSITION

According to Art. 4 of the Local Taxes and Fees Act, local taxes shall be assessed, secured and collected by municipal administration officers according to the procedure established by the Tax and Social-Insurance Procedure Code. Administrative and judicial appeal proceedings of the acts assessed a public municipal claim for taxes are developed according to the procedure of the Tax and Social-Insurance Procedure Code.(Ivanova, P., 2012) In administrative appeal proceedings, the municipality mayor shall exercise the powers of a deciding authority under Article 152 (2) of the Tax and Social-Insurance Procedure Code, and the head of the local revenue unit in the relevant municipality shall exercise the powers of a territorial director of the National Revenue Agency.

For the ascertainment of local tax obligations, the legislator has provided that the amount of the public municipal claim be determined by an act of a competent authority based on a fulfilled obligation to submit a declaration with the necessary content.

In order to determine the amount of claim for real estate tax, taxable persons submit a tax return under Art. 14 of the Local Taxes and Fees Act, based on it or other data, municipal administration officer pursuant to Art. 18 and Art. 19 of Local Taxes and Fees Act determines the amount of the tax and this amount shall be communicated to the persons not later than the 1st day of March in the same year. (Penov, S., 2021)

Determining the amount of the inheritance tax also requires the submission of a tax return under Art. 32 of the Local Taxes and Fees Act by taxable persons. The taxable estate shall be divided into portions, and each heir shall be allocated a portion according to the procedure established by the Succession Act. According to Art. 36 of the Local Taxes and Fees Act, the Municipal Council shall determine the amount of the tax separately in respect of each heir or legatee, within the limits set by law. The tax shall be determined and shall be communicated to each heir or legatee according to the procedure established by the Tax and Social-Insurance Procedure Code.

The amount of the tax shall be determined by a municipal administration official on the basis of data from the register of road transport vehicles maintained by the Ministry of Interior and shall be communicated to the taxable person.

The obligation of payment licence tax arises on the basis of a tax return submitted in the municipality within the territory whereof the establishment whereat the licence activity is carried out is located, and where the licence activity is not carried out at an establishment or is not carried out from a fixed location, the said returns shall be submitted in the municipality where the natural person, including the sole trader, has his or her permanent address. The amount of the tax is determined by an ordinance of the Municipal Council.

The determination of the amount of visitor tax is determined on the basis of a tax return submitted by the taxable person, and the amount of the tax due for the calendar month shall be determined by a municipal administration officer on the basis of data from the Single Tourism Information System maintained by the Ministry of Tourism.

The tax on passenger taxi transport shall be owed by the taxable persons for each individual automobile, for which permit for performance of passenger taxi transport was issued. Prior to receipt of the permit issued under Article 24a, Paragraph (1) of the Carriage by Road Act the taxable persons shall submit a tax return in standard form in regard to any tax due to the municipality, for the territory of which the permit for performance of passenger taxi transport was issued. The Municipal Council shall determine by the ordinance the annual amount of the tax on passenger taxi transport for the respective year and the tax due - by municipal administration officer.

According to Art. 107, para. 1 of Tax and Social-Insurance Procedure Code, where the revenue authority assesses the amount of tax or social-insurance contribution due on the basis of a return submitted by the taxable person, the said obligation shall be remittable within the time limit provided for in the applicable law.

Gift Tax and Tax on Onerous Acquisition of Property is not determined as an amount based on a tax return submitted by the person. It is a one-time tax that is paid upon acquisition of property in a compensatory manner. It is due and determined before the tax return of the property, already at the time of transfer of ownership, respectively - at the time of issuance of the deed certifying the right of ownership, which is subject to registration (argument 49, para. 2 Local Taxes and Fees Act). Therefore, Gift Tax and Tax on Onerous Acquisition of Property is not an obligation provided by tax return and the provision for preliminary establishment under Art. 107 Tax and Social-Insurance Procedure Code is inapplicable. Given the norm of Art. 108 Tax and Social-Insurance Procedure Code, the determination of this tax can be done with an audit instrument.

The administrative proceedings for issuing an act to issue an instrument on ascertainment of the obligation based on a declaration and for issuing an audit instrument are different. The administrative control over these acts is also different. In the first case, the control is carried out by the head of the local revenue unit in the relevant municipality, and in the second case, the control is under the competence of the municipality mayor, according to Art. 4, para. 5 Local Taxes and Fees Act.

Due to the importance of tax obligations, the legislator has provided a number of guarantees for their fulfillment - these are legal methods that the State creates to ensure, in the broadest sense, the collection of these receivables. In the legal literature, guarantees in a broad sense are distinguished, in which state coercion has not yet been applied, they are aimed at protection, at the exact application of legal norms, and they primarily have a preventive meaning. Guarantees in the narrow sense or substantive guarantees are understood as legal institutions established in connection with the enforcement proceedings themselves, such as the institutions of privileges and precautionary proceedings. (Kuchev, Y., 2010)

The purpose of the precautionary proceedings is to preserve the property of the debtor, so that the public claim can be collected according to the order of coercive enforcement, if the debtor does not comply voluntarily. (Penov, S., 2021) According to Art. 4, para. 3 of the Local Taxes and Fees Act in the proceedings for the securing of tax obligations, the municipal administration officers shall have the rights and obligations of revenue authorities, and in proceedings to secure outstanding tax liabilities, the said officers shall have the rights and obligations of public enforcement agents. The municipal administration officers shall be designated by an order of the municipality mayor. The acts they issue in connection with the imposition of precautionary measures are called a warrant, the formal content of which is regulated in Art. 196, para. 1 of the Tax and Social-Insurance Procedure Code. The precautionary measures they may impose are listed in Art. 197, para. 1 of the Tax and Social-Insurance Procedure Code, as they can be imposed both separately and together. The precautionary measures are:

- preventive attachment of a corporeal immovable or a ship;
- garnishment of corporeal movables and claims of the debtor;
- garnishment of the bank accounts of the debtor;
- garnishment of goods of the debtor in circulation.

Art. 198, para. 3 of the Tax and Social-Insurance Procedure Code introduces an express ban on the imposition of precautionary measures on the non-sequestrable property of the debtor under Art. 213 of the Tax and Social-Insurance Procedure Code. A garnishment shall be imposed by the municipal administration officer by means of a security interest warrant. This method applies to immovable and movable property and debtor's claims.

Preventive attachment as a type of precautionary measures is aimed at immovable property or a ship owned by the debtor. What is special about here- a corporeal immovable shall be attached by means of recording the warrant at the order of the competent recording magistrate according to the procedure for recording. The recordation judge shall send a notification to the debtor of the fact of recordation (Art. 205, para. 1 Tax and Social-Insurance Procedure Code). The legal effect of the preventive attachment arises upon its registration. A ship shall be attached by means of recording the warrant in the relevant ship registers of the Maritime Administration Executive Agency. The Maritime Administration Executive Agency shall send a notification to the debtor of the fact of recordation. (Art. 205, Para. 2 Tax and Social-Insurance Procedure Code).

The Coercive collection shall be levied by public enforcement agents according to the procedure established by the Tax and Social-Insurance Procedure Code or by enforcement agents according to the procedure established by the Code of Civil Procedure. (Art. 4, Para. 2 Local Taxes and Fees Act.). In the Tax and Social-Insurance Procedure Code, the proceeding for coercive collection of public claims is described as an independent procedure assigned to public enforcement agent from National Revenue Agency. They are agency bodies, with their rights, duties and responsibilities contained in the National Revenue Agency Act. As participants in Tax and Social-Insurance Procedure Code proceedings, they are also administrative bodies. (Penov, S., 2021) In the exercise of their powers, public enforcement agent issue warrant and orders, and draw up a protocol for each action undertaken and performed.

The relationship between the legal framework of the enforcement proceeding under the Tax and Social-Insurance Procedure Code and Code of Civil Procedure is clearly outlined by the regulation of the competition between Public Proceeding and Enforcement Proceeding under the Code of Civil Procedure, regulated in Art. 191-194 Tax and Social-Insurance Procedure Code.

Where coercive enforcement steps have commenced against the property of the debtor according to the procedure established by the Code of Civil Procedure, the State shall always be considered as a joint execution creditor for the public obligations owed thereto by the debtor, the amount of which has been communicated to an enforcement agent until performance of the distribution. To this end, the public enforcement agent shall transmit a communication to the National Revenue Agency on each enforcement commenced by the said agent and on each distribution. Within 14 days, the National Revenue Agency shall issue a certificate which contains information on the amount of public obligations of the debtor, on the measures imposed on the property of the said debtor to secure the said obligations, if any, as well as on the property whereagainst coercive enforcement has commenced.

In the event that a proceeding has developed and coercive enforcement has begun on property under the provisions of the Code of Civil Procedure and there are other claims, the proceeding is regulated in 191, para. 1, para. 2, para. 6 and para. 7 Tax and Social-Insurance Procedure Code. Property on which, prior to the initiation of coercive enforcement proceedings under the Code of Civil Procedure, protective measures were imposed or against which forced execution was started for the collection of public claims, is realized by a public enforcement agent under the Tax and Social-Insurance Procedure Code.

CONCLUSION

From what was said in the exposition, we can conclude that to guarantee the collection of local taxes and fees of the municipal administration officers, according to Art. 4, para. 3 and Art. 9b of the Local Taxes and Fees Act, powers have been granted to public enforcement agent. They are limited only to the possibility of imposing precautionary measures under the Tax and Social-Insurance Procedure Code, as enforcement under the same code is realized after handing over the public municipal debt for forced collection to a public enforcement agent at the National Revenue Agency under the Tax and Social-Insurance Procedure Code or to a enforcement agent under the Code of Civil Procedure.

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