

## **Abstract**

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The desire to minimize tax burdens and the reluctance to pay taxes is a natural and consistent reaction among taxpayers. Throughout the centuries, there has been a continuous struggle between individual freedom and the public (fiscal) interest of the state. Tax law norms encroach upon the spheres of human rights and freedoms, which represent a certain form of authority over the citizen. One of the reasons for this permanent aversion to taxation is the very definition of tax and its characteristics. On the one hand, such a situation naturally inclines towards seeking lawful ways to minimize tax liability. On the other hand, it is in the public interest to develop a tax system that ensures tax fairness towards all entities while protecting against the arbitrary taxation of taxpayers with a guarantee of predictability and legal certainty. These are challenges faced by all countries, given the increasing phenomena of tax erosion. Tax fairness should be achieved through the implementation of the following principles: universality and equality of taxation for all citizens, as well as proportionality in relation to their income. Continuous attempts are made in the literature to find the boundary between the fiscal function of taxes and tax justice, between taxpayers' distrust of tax systems and authorities' actions, and gaining social approval for legislative changes being implemented.

The aim of this thesis is to analyse the issues concerning the general anti-avoidance clause, its structure (as a provision) and application, and also to assess its effectiveness. The main research question is to determine whether the content of Article 119a of the Tax Ordinance Act sets a clear boundary between such taxpayer optimization actions that the tax authorities are willing to accept as permissible and, conversely, actions that, although not directly prohibited by law, cannot be considered acceptable. In other words, whether this provision establishes clear criteria for tax avoidance in order to assess the actions of taxpayers. Additionally, whether it sets the boundary for administrative discretion (margin of discretion) of the authority applying this provision.

In addition to considerations regarding the boundaries of the clause, it is important to examine whether tax authorities have effective tools for a thorough assessment of taxpayers' activities and whether taxpayers have adequate and sufficient means of protection. The answers to these questions are crucial for understanding the functioning of the clause in the tax law system and ensuring a balance between the rights of taxpayers and the powers of tax authorities.