

## **Tax Law as an Independent Branch of Law in Central and Eastern European Countries**

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**ABSTRACT** Tax law science has a longstanding tradition in the USA and Western Europe. In contrast, Central and Eastern European legal science has only recently admitted the independent existence of financial law. Financial law, however, is a very broad area of law. This fact will lead to a diversification of financial law. The main goal of this article is to confirm or refute the hypothesis that tax law is an independent branch of law in Central and Eastern European countries, specifically in the Czech Republic, Slovakia, Poland and Hungary. For that purpose the criteria for being considered an independent branch of law are analyzed, namely: separate and specific object of legal regulation, method of legal regulation, system and system coherence of legal norms, and social acceptance of the branch.

**KEYWORDS:** • tax • tax law • financial law • branch of law • Eastern European countries

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## 1 Introduction

The development of legal specializations is gradual and largely dependent on the diversity of the subject of knowledge. Every specialization provides its own definition of its object as it develops and involves lengthy discussions regarding what the object is, what defines it, and where the lines are that separate it from the object of other areas of law (Knapp, 1995: 4). Legal science – jurisprudence is thus a living science that is constantly evolving.

Tax law science has a longstanding tradition in the USA and Western Europe and is sufficiently advanced that the question is hardly even posed whether tax law can be considered an independent branch of law. In contrast, Central and Eastern European legal science has only recently admitted the independent existence of financial law, which split from administrative law in the second half of the 20th century. Financial law, however, is a very broad area of law covering public finance, the financial sector (banking, insurance, capital markets), currency and foreign exchange, accounting, etc. Moreover this is an area of law that is constantly evolving, with new laws being passed or existing laws being amended. This hyperactivity stems not just from rapid economic development, to which the law reacts sometimes quickly and sometimes slowly and with more difficulty, but also from European Union law, which forces EU member states to incorporate hundreds of EU directives into national legislation. In the next phase of development of financial law it will be necessary to react to these facts, which will without doubt lead to a diversification of financial law. Unfortunately, there are no theoretical papers on this topic published in Central and Eastern European countries.

The main goal of this article is to confirm or refute the hypothesis that tax law is an independent branch of law in Central and Eastern European countries, specifically in the Czech Republic, Slovakia, Poland and Hungary. For that purpose the criteria for being considered an independent branch of law will be analyzed, namely (Průcha, 2004: 34-35):

- separate and specific object of legal regulation,
- method of legal regulation,
- system and system coherence of legal norms,
- social acceptance of the branch.

After an examination of the analysis and a comparison of the views of tax law as an independent legal branch in the above stated four countries (the Visegrad countries), the findings will be synthesized and the hypothesis will be confirmed or refuted.

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## 2 The Object of Tax Law

The object of tax law is the social relationships that, in addition to taxes *sensu stricto*, also deal with charges, customs duties and similar levies, provided that they are paid to public funds (the state budget, local self-government budgets, state funds, etc.). These relationships are created, implemented and expire in the process of creating public monetary funds. The primary purpose of regulation is to ensure a material basis for subsequent provision of public goods by means of filling up public funds. It is possible to determine the amount of the funds that are the object of such relationships (the amount of taxes, fees, etc.).

There is no question that these relationships will always be of an economic nature. The contents, creation, interpretation and application of legal norms are also influenced by the type of economy in the given country and the economic model resulting from the government's economic policies. Take for instance the changes after 1989, which led to a completely new tax system in Central and Eastern European countries, and to a lesser degree for instance the changes in government coalitions after parliamentary votes (e.g. introducing a linear percentage rate on income tax for natural persons and the gradual cancellation of inheritance tax and gift tax).

Tax law relationships are monetary relationships *sui generis*, where the object of such relationships is public finances, i.e. receivables of public funds against tax entities and other entities in a similar position. These relationships are not monetary relationships under private finances, although pursuant to the law certain relationships from the category of private finances can represent financial facts establishing the creation, change or expiration of a monetary relationship falling under the category of tax law relationships, i.e. the object of tax law. One example is the payment of wages by the employer to the employee, which takes place in the process of performing the obligation of their private (private law, labor law) relationship by reallocating private monies between private monetary funds (funds for meeting private needs). This fact, however, is a financial fact establishing the employee's obligation to permit a deduction in wages by the mandatory amount transferred by the employer to certain public funds, specifically in the form of income tax (a personal income tax advance payments), insurance premiums (social, pension, health) and other potential contributions stipulated by law (e.g. contribution to the state employment policy). The employer is also obliged to pay the levy essentially in the form of payroll taxes (the part of the employee's insurance premiums covered by the employer) or insurance premiums (e.g. the legally required accident insurance for employees), etc.

A tax law relationship must be considered a relationship with no equivalent and no direct counterperformance by the public monetary fund or fund administrator to the entity fulfilling its tax law obligation (e.g. paying taxes).

We can also state that performances under these relationships are not only non-equivalent, but irrecoverable. For instance, a tax is not a loan to the state or a conditional payment returnable in case of failure to perform the obligations on the part of the state (failure to fulfill the government program).

The above mentioned principles make it clear that the relationships in question are power relationships: one of the participants is endowed by law with superior power, namely with the power to force performance of obligations using the threat of sanction or by actually enforcing the sanction from and within the confines of the law, and the other participant is obliged by law to fulfill the obligation stipulated by law, permit verification of the performance of the participant's obligation, and submit to potential sanctions, all insofar as the superior entity is proceeding within the confines of the authorizations, resources and procedures stipulated by law. Unlike the object of branches of law classified under private law, where these social relationships can be classified as horizontal ("peer-to-peer") relationships, the relationships regulated by tax law belong to the category of public law relationships, i.e. relationships between entities on an unequal footing – vertical relationships, and considering the method of regulation, also potentially diagonal relationships.

### **3 Method of Legal Regulation of Tax Law**

The power imbalance inherent in the social relationships regulated by tax law makes it clear that tax law will also use the regulation method with the characteristic features customary for the branches of law that we classify under the heading of public law within the traditional continental European concept of the system of law (legal culture) established on the basis of Roman law. In addition to tax law, this category certainly also includes financial law, constitutional law, administrative law, criminal law, etc.

Tax law is related to financial law and administrative law not just by their historical connection but also by the method of legal regulation used. Based on its characterization according to the criteria for being considered an independent branch of law, administrative law is distinguished by the application of a type of public law method, which is the administrative law regulation method. This method is based on the effect of public authorities on the recipients of public authority, in particular by means of the norms enforceable by public authorities and contained in normative administrative acts, i.e. bylaws and ordinances issued by public authorities authorized in and for the implementation of the law and within the limits stipulated by law (sub-statutory regulations), as well as by means of individual administrative acts – decisions of the public authorities authorized by law to make such decisions in the specific administrative matter. Just as public administration is gradually absorbing the client model into its operations, where its activities fit the image of real public service in place of the more or less repressive

authoritarian police administration of a traditional bureaucratic nature, the administrative law method is also gradually incorporating new elements closer to private law methods (the contract). The method applied in financial law is essentially a modified version of the administrative law method, namely with regard to the actions of public administration authorities and in relationships regulated by financial law. Statistics can demonstrate that there is a lower level of applying sub-statutory regulations in financial law regulation than in administrative law; in other words the law gives public administration authorities less space to carry it out. Public administration authorities apply economic instruments to a greater extent in this area to affect recipients (central bank interest rates, mandatory deposit in a state of emergency, etc.). Certain private law elements also modify the administrative law method, such as agreeing on the conditions for use of grant funds, applying the principle of competition in using public funds in public procurement, etc. Certain administrative activities are also delegated to private law entities, such as monitoring fulfillment of the obligations stipulated by the Foreign Exchange Act to the client in carrying out currency exchange transactions, where this administrative activity is delegated to the currency exchange point (a bank or other entity with a currency exchange license).

A similar situation prevails in tax law. Very few sub-statutory regulations exist in this area; the vast majority of legal regulations in the area of tax law take the form of an Act, primarily with regard to such a requirement stipulated in the Constitution or a similar document (e.g. in the Czech Republic such rule is contained in the Charter of Fundamental Rights and Basic Freedoms, which forms part of the constitutional system along with the Constitution, in Poland it is established in Article 216(1) of the Constitution, similarly in Slovakia in Article 58(3) of the Constitution).<sup>1</sup> Of the types of sub-statutory regulations, the most significant in the Czech Republic are the generally binding ordinances (*vyhlášky*, similar to the differently-named sub-statutory regulations in Slovakia, Poland and Hungary), which municipalities (or other local self-government units) use to “complete” the legal regulation of property taxation and local taxes (fees). This area also contains many economic instruments public administration authorities can use to affect recipients. These instruments generally include, for example, tax credits and other corrective elements, tax holidays, etc. Specific to this area is the very frequent use of private law elements to modify the traditional administrative law method of regulation. As an example, take the options of negotiating taxes, postponing taxes, payment calendars, etc. We can even find typical private law relationships in tax law, such as the relationship of an employer who pays wages (salary) to an employee: their relationship is without doubt a labor law relationship, although the employer is obliged to deduct a personal income tax advance payment as well as insurance premiums and other levies stipulated by law from the employee’s wages and the employee is obliged to permit such conduct. The authority to withhold tax is thus delegated from the state to a private law entity. Many analogous relationships can be found in tax law (a bank withholds

tax on interest accrued, a joint stock company withholds tax on dividends, a seller collects VAT from a buyer along with the sale price, etc.).

What is the most specific to tax law, however, is a principle known as self-application. In tax proceedings (unlike in administrative or financial law) the administrative negotiations do not take place between the administrative authority (tax administrator) and (tax) entity, but rather primarily assume the knowledge and orientation of the tax entity in the area of tax law. The taxpayer applies tax law norms to itself by determining the tax base using its own knowledge, uses the relevant tax rate for itself, and applies the corrective elements for itself. The taxpayer then delivers the completed tax return to the tax administrator, which assesses the tax tacitly, i.e. implicitly, provided that it has no reservations regarding the correctness and completeness of such return. In most cases, therefore, there is no interaction at all between the tax administrator and taxpayer.

On the basis of the above mentioned facts we can state that tax law relationships certainly have a public law nature, which is a reflection of the priorities of the public interest in the given area. The mandatory nature is moderated, however, in certain instances with an element of choice (voluntary VAT payer, method of depreciation, lump sum expenditures for income taxes). Considering the above stated specifics of the tax law regulation method, the regulation method can be defined as an administrative law method modified to include private law elements with the use of self-application.

#### **4 System Coherence of Tax Law Norms**

System coherence represents the level of interconnectedness of the norms in the given legislative area, i.e. to what extent the norms in such area are linked to each other as compared to those in other branches of law. A branch of law is not an island to itself in the sea of legislation; the norms of one branch have a certain relationship (even if not as strong) to the norms in another branch. The closest links are those between norms regulating the same category of social relationships (e.g. the set of legal norms regulating social relationships involving personal income tax on employment and emoluments), then those between norms regulating relationships involving less specified objects (personal income tax), then norms relating to both kinds of income tax (personal income tax and corporate tax), and lastly tax law norms – norms relating to all taxes (primarily the general institutions, policies and principles valid for tax law as a whole). Outside of tax law the closeness of the links will depend on how much the legislation overlaps (e.g. to what extent the laws refer to each other). A greater level of connection should exist between tax law and the other branches of public law.

The system coherence of tax law norms must be divided into external system coherence, expressing the relationship to other branches of legislation, and internal system coherence, i.e. within the system of tax law.

From the standpoint of the relationship to other areas of the law, first consideration should be given to constitutional law. As in other areas of law, the constitutions of Central and Eastern European countries generally, fundamentally regulate certain institutions, institutes and policies relating exclusively to tax law and also, of course, general policies and principles that apply to all legislation. Constitutions usually address issues of the operation of fiscal federalism and guaranteeing the economic autonomy of public self-administration authorities.<sup>2</sup> The Constitution of the Czech Republic, for example, establishes the basic principles of the economic basis of local self-government units or the state budget and the Character of Fundamental Rights and Basic Freedoms establishes the constitutional principle for modification and enforcement of tax and fee obligations. According to Mrkývka, this can be considered a constitutional minimum, since the Constitutions of the other Central European countries also regulate other “above-standard” aspects of tax law (Mrkývka, 2012: 114-125). For instance, the Polish Constitution emphasizes among other things the need for statutory regulation to determine the method of allocation and redistribution of the financial resources intended for public purposes, and along the same lines the Slovak Constitution stipulates that special-purpose government funds connected to the state budget may be only established in the form of an Act (Polish Constitution art. 216(1), Slovak Constitution art. 58(3)). Unlike the Czech Constitution, the Hungarian Constitution explicitly grants local self-government units the right to modify taxes via local government actions pursuant to the law, and the Lithuanian Constitution even explicitly requires municipalities to cover expenses from their own budgets (Hungarian Constitution art. 44a, Lithuanian Constitution art. 121). The Slovak Constitution applies the institute of tax federalism in Article 59(1), which divides charges into state and local charges. It is interesting to observe the constitutionally established obligations of natural and legal persons as well: in Hungary each person must contribute to covering public expenses according to his/her/its income and property means (Hungarian Constitution art. 70i in Klokočka, 2005), and in Poland there is a similar obligation to contribute to public expenditures and fulfill obligations, in particular the obligation to pay taxes (Polish Constitution art. 84).

Tax law is most often joined to financial law; many authors (e.g. Mrkývka, 2012: 167, Boháč, 2006: 6-10) classify tax law under the fiscal section of financial law (the public revenue section – for more detail see the section dedicated to social acceptance of tax law). These branches use a similar method of legal regulation; taxes are the income of public funds, many submissions are subject to payment of an administrative fee, an administrative fee is de facto a tax and therefore an object of interest for tax law.

The same statement regarding the regulation method also applies to administrative law. The creation, existence or expiration of administrative law relationships, or potentially facts contingent upon them, can be a financial circumstance that is a prerequisite for the creation, implementation or expiration of a tax law relationship. For example, commencing administrative proceedings is subject to payment of an administrative fee; breach of the administrative law obligations can mean fulfillment of the legally stipulated constituent elements of an administrative offense, which can be subject to a penalty (fine, etc.) from the administrative authority, such penalty is public monetary fund revenue and thus becomes a tax *sensu largo* and is subject to the same administrative and procedural norms as a tax owed. Tax proceedings are no more than a type of administrative proceedings, subject to the general policies and principles of administrative procedural law.

Criminal law contains the constituent elements of criminal offenses related to breach of tax law norms, thereby fulfilling the penalty component of tax law norms.

Environmental law is related to tax law, in particular through the sanctions, fees, contributions and payments related to the environment, which are public fund revenue.

With reference to procedural law norms we should also mention civil procedural law, which is bound to financial law on the one hand by court fees (taxes *sensu largo*) and on the other by administrative justice, i.e. reviewing tax law decisions by the court as one of the means of monitoring legality in public administration.

The link to private law is seemingly less close, although tax law norms do use some institutions and institutes regulated by the norms of civil law, commercial law, family law, or labor law, including the definitions regulated therein. If tax law operates with the concept of “natural person” or “legal person”, it does so using the definition of “person” set by civil substantive law; if tax law applies the rights and obligations to, for instance, a general partnership or other company or to a cooperative, shareholders, partners, executive directors, cooperative members, etc., it defines these entities using commercial law norms. As indicated above in the example regarding the relationship of wages to taxes, at a certain moment stipulated by financial law some relationships governed by the norms of civil law, commercial law or labor law become a fact establishing the creation, change or expiration of a tax law relationship. Thus a purchase agreement, provided that the object of sale is real estate, generally heralds the creation of a tax law relationship. A tax law relationship arises by implementation of the purchase agreement, specifically by entry into the real estate cadaster or other similar records. The entry takes effect retroactively as of the date of submitting the application for entry (the date of establishing the relationship between the new owner and the state with the object of such a relationship – real estate tax) and upon delivery of



the agreement with its entry in the real estate cadaster marked (at which point the seller or buyer enters into a tax law relationship with the state, i.e. the real estate transfer tax). The process is similar in case of donations. In civil law inheritance and passing it to the heirs is a legal fact establishing the obligation to pay inheritance tax. The birth of a child is also a financial event with an impact on, for instance, a tax relief on income tax for one of the parents. The formation or dissolution of marriage and the formation, restriction, expansion, cancellation or expiration of marital property is also a fact that is reflected to various degrees in the existence of tax law relationships. The same applies to the area of labor law relationships.

Tax law, like the entire legal system in the Czech Republic, is influenced by international law, when in some cases international law norms regulate the social relationships of the object of tax law. This is the case, for example, with application of double tax avoidance agreements. A new and significant element is the adoption of European standards and in some respects references to European law norms or EU norms in national legislation.

Internal system coherence is expressed in the system configuration of tax law. Internal system clarification is not only theoretical in value, but primarily practical in the process of implementing and interpreting tax law norms. The tax law system should be understood as the internal differentiation of tax law into comprehensive collections or groups of tax law norms with regard to their content and the affinity of the social relationships they regulate (Slovinský, 1992). This system is not dogma, but is in its own way based on tradition, agreement and acceptance of tax law theories just as in other disciplines. It is changeable, just as the object of tax law and the law itself changes and develops. A classification system for tax law is needed due to its lack of codification and most likely the reluctance to prepare a general codification in the near future in all monitored states; there is therefore a need for a certain orientation in the countless sources and individual norms. The classification system for tax law is utilitarian and also reflects the concept of tax law as a branch of law, a science, or an educational discipline, which is why we can speak of the system of tax law as the system of one of the areas of national legislation, but also as the system of tax law science and the system of teaching the subject called "Tax Law", in particular at law schools and university economics departments. These systems are not strictly separated from each other, so just as there is a natural connection between the different views of tax law, there is also a certain level of connection between or merging of these system configurations.

Like other branches of law, tax law can be divided into a general and specific section. From a doctrinal and didactic perspective on tax law, the general section is made up of general information regarding tax law and its object, norms and relationships (Grůň, Králik, 1997). A review of tax law can gradually lead to the

conclusion that although the general section of tax law is not codified, it does contain certain institutes of a general nature which are completed in the individual sections of tax law, as well as certain general principles applying to tax law as a whole, which serve to create, implement and interpret it. To what extent this can be formed into a coherent whole, using unified terminology, policies, and legal institutes valid for all tax law relationships will depend on the further development of tax law. These general issues could appear, for example, in existing regulations of a more procedural nature as well as entirely new legislation, e.g. the Public Finance Act, which would contain general institutes from the area of tax law as well as financial law. Poland stands out from this standard framework for Central and Eastern Europe with its Public Finance Act (ustawa z dnia 27 sierpnia 2009 r. o finansach publicznych), which could provide an example for other states in this regard. Tax law jurisprudence could also play a significant role in this process.

The specific section, labeled as substantive tax law, contains the substantive legislation with regard to individual tax law relationships. Their regulation is split between many different legal regulations. Nevertheless we can find a certain organization system in the jumble of individual legal regulations and norms, based on which the specific section of tax law is made up of the following sub-branches:

- tax law (in the narrow sense) – traditional name for the set of legal norms regulating public revenues from taxes (i.e. taxes *sensu stricto*), with these norms determining the persons burdened with tax liability, the object, base, and rate of the relevant levy and other structural elements of the tax,
- charge law – sub-branch regulating public budget revenues from charges and the structural elements thereof,
- customs law – sub-branch in many ways similar to tax and charge law, but regulating the most important accessorial public revenue, which is customs duty. The question is, however, whether customs duty is different enough from a tax to justify regulating it under an independent branch of law – customs law.
- Another set of norms within the tax law system is the relatively comprehensive set of procedural law norms. Procedural tax law norms regulate:
  - the procedural law position of entities in proceedings on the rights, legally protected interests and obligations resulting for participants from substantive tax law,
  - procedural law practices in decision-making processes before tax administration authorities and legal and natural persons, if they were entrusted by law or based on the law with making decisions on the rights, legally protected interests and obligations of other entities resulting from substantive tax law norms,
  - the practices of subordinate entities when implementing substantive tax law, which do not involve proceedings before public authorities but procedures the subject (e.g. subject of taxation – taxpayer, payor) applies to

him/her/itself or the payor sets a legal obligation for the taxpayer on the basis of substantive tax law (e.g. tax liability) using the prescribed technique (tax technique), declares such fact in the prescribed manner to the superior entity (authority), with this declaration having the same legal effect as a judgment in legal proceedings, and carries out the declared obligation, again in the prescribed manner (e.g. the apt Polish term “samowymiar”, which describes this process *sui generis*). Unlike the processes set forth in the first two points, which are an authoritative application of substantive tax law, in this case the authoritative component is secondary, used only in the event of the subordinate entity’s failure in the primary “self-application” of the relevant norms of substantive tax law. This method of implementing substantive tax law norms resulting in the above mentioned declaration of obligation (e.g. in the form of a tax return) is not identical to direct implementation of the norms of tax law, which lacks such an outlet,

- the legislative process in creating, passing and monitoring fulfillment of public budgets pursuant to the financial (tax) documents.

With regard to the processes of applying substantive tax law, we can distinguish primarily the following:

- tax proceedings,
- administrative proceedings before the tax administrator, when the object of the proceedings is not the tax itself but another obligation of the taxpayer,
- the “self-application” process (see above).

Another specific sub-system of procedural law will be judicial tax law (e.g. Nováková, Foltas in Miškinis, Ruškowski, 2004) regulating the decision-making processes in matters of substantive tax law in court, in particular in administrative justice and judicial enforcement of tax administration decisions.

Public administration authorities clearly have an active presence in tax-related activities. The norms of an administrative law nature regulating the organization and legal position of tax administration authorities do not comprise a unified sub-branch of substantive administrative law or a unified section of tax law, although we can entertain the idea of a possible administrative tax law, made up of the set of legal norms regulating public administration in the area of taxes and related activities. This would involve, in particular, regulating tax administration authorities, i.e. public administration authorities, in the area of public revenues from taxes and charges, as well as regulating customs administration, such as public administration of customs and customs duties, etc. The literature also mentions the term organizational financial (tax) law (e.g. Spáčil, 1970: 72).

The deliberate focusing of a certain section of tax law norms (including tax administration norms) on defining the foundations and consequences of liability for breach of tax law norms, i.e. the set of such norms of a protective nature, can be described jointly as criminal tax law (e.g. Šramková in Miškinis, Ruškowski,

2004). For instance, in Poland this section is often reflected in an independent code, which regulates the liability system of what we would consider tax administration and financial administration offenses as well as criminal offenses (Prusak, 1996). In the case of the Czech Republic, the legal regulation of criminal tax law is contained in the Tax Code and Criminal Code, as well as to a lesser extent in the individual, predominantly substantive, tax regulations (e.g. in the Act on Local Charges).

## **5 Social Acceptance of Tax Law**

With regard to the fourth criterion for being considered an independent branch, social acceptance, it will take some time for this criterion to be met in Central and Eastern European countries. Tax law has experienced a very long evolution and it could almost be said that this is one of the first, if not the very first, branch of law. Even the professional literature states that law came into being along with the first nation-states. In order for these states to function, they needed substantial financial resources (taxes), which they collected – whether by violent or non-violent means – from the people living in the given territory. However, most Central European authors (e.g. from Poland Košíkowski, Ruśkowski, Borodo, from the Czech Republic Bakeš, Karfíková, Marková, Mrkývka) lean more toward the opinion that tax law is a sub-branch of the fiscal section of financial law.

Some Polish scholars, however, take opposing positions, from the perspective of this article more relevant. Mastalski, for instance, defines tax law using criteria for being considered an independent branch, similar to the approach in this article. He considers the object of tax law regulation to be the specific social relationships belonging to broadly conceived economic phenomena. They are social relationships arising from the division of funds between society, represented by the state, and individuals. Social relationships regulated by tax law are created, implemented and expire in the background of the transfer of funds from economically active individuals to the state. Such transfers do not produce immediate, direct counterperformance on the part of the recipient (Mastalski, 1995: 30-32). Other Polish authors publishing in support of an independent tax law include Etel, Brzeziński, Małecki, Gomułowicz and others (e.g. Etel, 2010, Gomułowicz, Małecki, 2010, Brzeziński, 2008).

The strongest voice in favor of an independent tax law in Slovakia is Babčák. In his opinion, the object of tax law is those socioeconomic relationships pertaining to the implementation of tax authorizations and the fulfillment of tax obligations by the participants in such relationships. The object of tax law is first and foremost a tax obligation, i.e. an obligation expressed by paying taxes. From the perspective of systemizing tax law, Babčák distinguishes tax authorizations and obligations of a monetary nature from tax authorizations and obligations of a non-monetary nature (Babčák, 2008: 49).

Financial and tax law science in Hungary has gradually taken on a conception similar to that of Babčák and Małecki. The independence of tax law is argued in particular by the application of the theory of obligation in the tax relationship and also the specific construction of tax norms, specific manner of liability and lastly the special procedure. Tax law is understood as an extension of financial law (Földes, 2001: 75).

It is clear that, especially in Poland and Hungary, tax law is more and more perceived as an independent branch of law, which is apparent not just in the opinions of individual authors, but also in the number of publications on this topic, separate instruction on tax law at law schools, establishment of specific courses focused on tax law at independent tax law departments, etc. Thanks to Babčák's initiative, Slovakia has also made great strides in the perception of tax law as an independent branch of law. The Czech Republic has the least developed view of tax law from this perspective, as only the author of this article supports the independence of tax law. Only the hard work of scholars who believe in the autonomy of tax law can bring about the fulfillment of the final criterion for being considered an independent branch of law: social acceptance of tax law as an academic discipline.

## **6 Conclusion**

As the text above makes clear, tax law has a very specific object of regulation, which is different from the other sub-branches of financial law, is characterized by its own tax regulation method, certainly has its own internal system, and operates with reference to the norms stipulated by other branches of law. If we add to these aspects the tradition and significance of tax law norms and especially the purpose of tax law (pursuant to the Constitutions of the Czech Republic, Poland, Slovakia and Hungary, international commitments and the attempt to achieve the most efficient approximation of law in order to ensure the operation and stability of the economic system of every state, including its compatibility with the economic system applied in EU member states in the form of a sufficient material basis for the provision of those goods whose production the public sector has reserved for itself or must provide by law), it is obvious that tax law merits social acceptance, which will also fulfill the final criterion for being considered an independent branch of law, giving tax law the status of an independent branch of law.

These conclusions are also supported by the experience of experts from the USA and Western Europe,<sup>3</sup> where tax law science has a long tradition and the question is hardly even posed whether tax law can be considered an independent branch of law. However, as the deliberations regarding the social acceptance of tax law make clear, this is not yet the case in Central and Eastern European countries. The hypothesis stated in the introduction to this article has therefore not been confirmed and tax law is thus not considered an independent branch of law in Central and Eastern European countries. I feel confident, however, that this social

acceptance of tax law will come about in the near future and tax law will finally be acknowledged as a legitimate and independent branch of law in this region, just as it is elsewhere in the world. I believe that this article can play its part in the process.

## Notes

<sup>1</sup> For more detail see e.g. Mrkývka, 2012: 114-115.

<sup>2</sup> For more on this topic, see e.g. Vojinović, Mikac, Oplotnik, 2013, Bronic, Franić (2014), Delgado (2012).

<sup>3</sup> E.g. Karen Brown (George Washington University, USA), Tracy A. Kaye (Seton Hall University, USA), staff of the Institute for Austrian and International Taxlaw (Michael Lang, Alexander Rust, Josef Schuch, Claus Staringer, Pasquale Pistone, Alfred Storck, Jeffrey Owens), members of European Association of Tax Law Professors, Paul L. Caron (Pepperdine University, USA), etc.

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