



CASE – Center for Social
and Economic Research

The Political Economy of Place-Based Policies with a Focus on Special Economic Zones

There is no Rose without a Thorn? and other tales

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The original title of the paper was

'There is no Rose without a Thorn?'
A Typical Trap in the Tax Incentive Driven FDI Promotion Policy
A Lesson from the Polish Special Economic Zones

Here, we hypothesised:

1. There exists/-ed the inter-ministerial conflict b/w M. Economy and M. Finance.
2. The promised tax incentives were interpreted differently by the tax authorities.
3. The Admin. Courts became the arbitrating platform, depoliticising the conflict.

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HOWEVER,

- The Ministries have been communicating each other to solve the conflict of laws in a top-down manner.
- 'Individual tax ruling' adds a bottom-up character to the SEZ-tax judiciary.
- The Admin. Courts refer to the 'ancillary' or 'subsidiary' activities as a proper benchmark for tax evaluation.
- The reform of tax advisory and establishment of the open-access databases (individual tax rulings, admin. court verdicts) reduced the information costs.

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Centralna Baza Orzeczeń Sądów Administracyjnych

Formularz wyszukiwania

Szukane słowa

Występujące w Z odmianą słów

Sygnatura

Sąd

Rodzaj orzeczenia

Symbol sprawy

Data orzeczenia (RRRR-MM-DD) do

Sędzia Funkcja

Status

Orzeczenie prawomocne	<input type="checkbox"/> Tak <input type="checkbox"/> Nie	Z tezą	<input type="checkbox"/> Tak <input type="checkbox"/> Nie
Orzeczenie kończące	<input type="checkbox"/> Tak <input type="checkbox"/> Nie	Z uzasadnieniem	<input type="checkbox"/> Tak <input type="checkbox"/> Nie
		Ze zdaniem odrębnym	<input type="checkbox"/> Tak <input type="checkbox"/> Nie

Rodzaj skarżonego organu

Hasła tematyczne

Powołane przepisy Akt prawny Przepis

Urzędowy zbiór orzeczeń Opublikowane Rok, nr, poz

Głosy Z glosą Publ.

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Therefore, the title of the new paper is

Special Economic Zones in Poland A 'Self-purifying' Judicio-economic Paradigm Surrounding the Place-based Investment Promotion Policies

Here, we claim:

1. The Admin. Courts (arbitrating platform) focus on the declared SEZ goals beyond the mere geographical boundaries.
2. Individual tax ruling became a major communication tool, and the intermediary role of tax advisors expanded.
3. This judicio-economic paradigm is self-reflective as the past administrative decisions (e.g. tax rulings) influence the future economic decisions (e.g. investment plans).

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Example verdicts on the ancillary activities:

- I SA/GI 799/13 (Yes)

Maintenance services (outside SEZ) for the mining machines (SEZ)

- II FSK 1139/10 (Yes)

Transportation and installation services for the products from the SEZs
Reference to the Polish Classification of Goods and Services (PKWiU)

- III SA/Wa 1641/12 (Yes)

The head office outside SEZ – no obstacle for job creation within the SEZs

- I SA/GI 15/09; II FSK 1457/12; I SA/Bd 868/09 (No)

Sales from industrial waste and iron scraps from the SEZs

- II FSK 2461/11 (No)

Training centre and canteens for the SEZ employees

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Administrative Court

1980: Reintroduction of the Supreme Administrative Court (NSA/SAC)

2004: Two-tire System in Administrative Court (Voivodship & National Level)



Tax Advisor (Doradca Podatkowy)

1996: New profession of Tax Advisor introduced

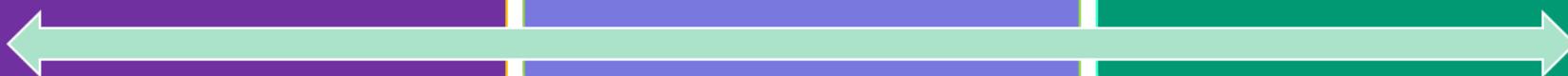
2001: Tax Advisors entitled to represent the complaints in the tax proceeding before the Administrative Courts



Individual Tax Ruling (Indywidualna Interpretacja Podatkowa)

2004: Introduction of Ind. Tax Ruling

2006: Ind. Tax Ruling included in the catalogue of the judicial control of the Administrative Courts



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Variables (a.k.a. limitations in our findings):

- Individual tax ruling application fee (from 40 PLN to 1,000 PLN?)
- Treatment of 'loss carry over'
- Further reform of tax advisory profession
- Higher education in tax law (especially private institutions)
- EU Directives and Regulations

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Conceptual remarks:

- This judicio-economic paradigm is transferable to any jurisdictions where the administrative judiciary is fairly developed.
- As the bottom-up mechanism functions with high transparency, its evolution is self-reflective – 'self-purifying' the conflict of laws.
- Because of the transparency, legal literacy on tax judiciary among the SEZ investors increased.
- Higher legal literacy will result in more efficient and effective investment decision making.

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Conceptual remarks:

- This judicio-economic paradigm is transferable to any jurisdictions where the administrative judiciary is fairly developed.
- As the bottom-up mechanism functions with high transparency, its evolution is self-reflective – 'self-purifying' the conflict of laws.
- Because of the transparency, legal literacy on tax judiciary among the SEZ investors increased.
- Higher legal literacy will result in more efficient and effective investment decision making.
- Still, neither Law & Economic nor Evolutionary Geography offers precise meta-theories to understand spacio-temporal dynamics of the SEZ as a whole.

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