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Summary of the master thesis
"**Tax Discrimination of Personally Performed Services – Chosen Comparative Aspects**"
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The thesis is a legal comparison of the Polish and English tax systems with regard to taxation of income from personally supplied services. The question which has been stated before the research concerned the rules applicable to taxation of persons who are not employees but work in the frames of their own business activity. This issue has been examined on the basis of managers' contracts in Poland and personal service companies in the UK. These two structures differ in their legal form but they both constitute business vehicles for persons who do not wish to be employed but rather engaged as entrepreneurs.

As a result of the research, it has been found that in both countries the respective vehicles have been recognized as artificial forms of employment which were designed for avoiding taxation according with the rules applicable to employment. Instead, using these structures, individuals were able to take advantage of the preferential taxation rules offered to entrepreneurs. In order to counter tax avoidance, the governments of Poland and the UK introduced special anti-avoidance provisions (called IR35 in the UK). Their effect was that they conferred employment status on those individuals who – having the profile laid down in the tax acts and case law – should otherwise be employees. Thus, the tax law treated some category of persons as employees and taxed them accordingly although they were not recognized as workers on the ground of employment law. As a result, they did not get protection, privileges and guaranties offered by employment law, yet had to comply with all obligations flowing from their entrepreneurial status.

This led to a conclusion that the persons performing services personally but not employed are discriminated in the field of taxation. The legal structure of this discrimination has been analysed. The outcome was that both the examined legal systems utilized some elements of the construction of income tax to differentiate the situation of some category of workers. Firstly, definitions. The power of the law-maker to define the notions appearing in the tax acts led to the situation in which the same case has different legal consequences in tax law and in civil law. Moreover, it was able to determine the status of an individual for tax purposes notwithstanding his position in other branches of law, by creating a legal fiction that the person is an employee. Secondly, schedules of income tax allowed to transfer the chosen category of taxpayer from one group to another, thereby changing the applicable tax rules. Thirdly, tax rates and tax-deductible expenses were directly used to differentiate the tax situation of the persons supplying their services personally on the basis of contracts other than for employment.

Searching for the roots of this discrimination it has been found out that the following question had to be answered: had the anti-avoidance provisions led to discrimination or had the discrimination resulted in avoiding taxation?

The outcome of the thesis was that the presented discrimination had it roots in the concessions made to employees in the field of employment law. For that, they had to accept higher taxes and social security contributions. However, today the employment contract is not always the most appealing form of engaging a worker and it has been substituted by other – less severely taxed – forms. The law-maker treated this as tax-avoidance and countered, leading to discrimination. But is it not that the taxation of employees and social security systems should be changed as discriminative?