SUGGESTION OF LEGAL REGULATION OF TAX ADVISORY SERVICES TO ENSURE ITS HIGHER QUALITY – CASE STUDY FROM SLOVENIA

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Abstract

Article analyses the suitability of the legal regulation model of tax advisory services in relation to their higher quality. A comparative preview of (non)regulation of tax advisory services in selected EU states is being discussed and several regulative models for Slovenia developed based on comparison. With empirical results from (i) different groups of professional tax advisory service providers and (ii) tax advisory service clients we try to identify elements of tax advisory services quality and risks. Based on the results new model of regulation of the profession and the level of regulation, suitable within EU law frame, has been suggested. The key finding is that higher level of regulation would improve the quality of tax advisory services, which is not only important for clients of services, but also in the public interest, as it increases confidence in tax returns and financial statements prepared by tax advisors.

Keywords: Quality of services, regulated professions, tax advisory services, taxing and financing, tax.

JEL Classification: E6, G28, H2, M4

Introduction and short theoretical background

At the EU level, significant convergence can be noted in the area of tax advisory services and professions involved in such activities, although complete harmonization has not yet occurred. Analysis shows that some countries have more severe conditions performing the profession than others, which indicates an absence of complete liberalization of profession (Waschkau, 2007). In accordance with its fundamental guidelines, the EU is striving towards deregulating and liberalizing the market of services, although at the same time it conveys upon professional services a special status, allowing states to regulate them based on their specifics[1]. Moran (2010) states that regulation and standardization of services in EU has been forced to appropriate the doctrine of subsidiarity, under which responsibility is delegated to lower levels and, in part as a result, the policies which are to be implemented have to be worked out in consultation with the affected parties". Some useful hints regarding standardization of services can also be found in Vasile, Laurentiu (2008). The state can regulate tax advisory services in various manners, for example by determining the conditions to undertake and carry out the profession, by protecting the title without formal regulation of the profession and authorizing organizations to award titles, or by regulating who may represent taxable persons.

Tax advisory as a legally regulated profession. In states where tax advisory is legally regulated is deemed a public profession. Chambers of tax advisors have special legal authorities and protecting the interests of members and ensuring they operate in accordance with the law. This distinguishes chambers from private associations. They usually require special training and a test of professional knowledge and are charged with recognizing professional qualifications. Usually, membership in chambers is mandatory and linked to obtaining the professional title. Systems making use of chambers legally regulate the rules of the chamber (Klement, 2008).

Tax advisory as a legally unregulated profession. In many EU states, tax advisory services are not legally regulated. This "shortfall" is remedied by private professional organizations that represent the profession. In such states, providing tax advisory services is not exclusively reserved to a certain profession, but can be conducted by anyone, as in certain states that make use of chambers (such as Belgium, France and Italy). Professional associations are responsible for professional training. Membership in the professional organization and the use of its name are not a condition for carrying out the profession, although the quality of the individual tax advisory is reflected in the professional organization he or she is a member of. This ensures tax advisors are interested in using the name of the professional organization and adhering to its professional rules. Some professional associations, even though they do not use a protected title, still have strict rules of member conduct (in the Netherlands: *Orde van Balastingadviseurs*). Their purpose is to protect and further the standing and independence of the profession, as well as to represent the interests of members. They provide regular and additional training, give professional advice, act in disciplinary affairs and protect the title. Many associations participate in improvements to tax legislation and propose improvements (Klement, 2008).

Modern theory of tax advisory services maintains that the tax advisor must primarily strive to resolve the client's tax problems, while at the same time maintain an active tax policy. It should be emphasized that solely preparing tax returns based on existing facts and in accordance with tax legislation is not enough (Schmitz, 2002). On the contrary: the tax advisor must strive to provide the client with complete data on their tax position, timeframes, and tax liabilities. The client should be continuously informed of the activities undertaken by the advisor. In addition it must have constant access to all documentation, allowing an uninvolved party to perform external supervision of work. Despite the fact that the tax advisor is primarily responsible to the client and client's benefit, the wider public, tax authorities and directly or indirectly involved stakeholders also benefit from quality of

[1] Further reading: Commission of the European Union, Com (2005) 405 final).

services. Undoubtedly, the fundamental benefit is collection of taxes, as the quality of tax returns would be lower without professional and reliable tax advisory services. Quality tax advisory services therefore require a professional approach to work, while tax advisors must be knowledgeable, independent, neutral and operate in the public benefit. If tax advisors are to operate in the public benefit, they must not have in mind solely their own profit, but mainly the client's goals, the goals of the professional organization and society, which implies their highly ethical conduct and a sense of responsibility. The tax advisor serves and is responsible to the wider society (Pasch, 1997). From the legal point of view, the following characteristics give tax advisory the appearance of a profession in the public interest (Mann, 2004): special highly-professional training, advisory emphasized personal component of tax advisory services, self-responsibility and professional independence, importance of confidence and public trustworthiness of the profession.

Quality of tax advisory services. The term “quality” is understood as the optimal satisfaction of the client's needs through faultless services, in accordance with legal and professional regulations. Some important thoughts about importance of quality in services can be also found in Laurentiu, T., Vasile, D, Iacob (2011). The tax advisor must satisfy the client's professional, as well as subjective quality requirements. The tax advisor views quality through the prism of statutory and professional requirements and evaluates quality based on his or her professionalism and understanding of the service performed. Fundamentally, we can differentiate between quality requirements of the service provider and the client. The service provider defines quality from the point of view of the quality standards of advisory firm, while the client views quality through the prism of benefits received. Literature emphasizes that it is important how quality is viewed by the client (Fischer, 2004 or Plumb, Zamfir, 2009)). Pestke (2000) categorized quality of tax advisory services according to three criteria depending on the quality type, level and instrument. In this respect he distinguishes between the following types of quality:

- Structural quality, the level of which is determined by professional rules (namely the obligation to undertake basic and continuous training, professional requirements, professional liability, and the supervision of tax advisors);
- Procedural quality, which requires the client’s heavy involvement in discerning the actual facts of the case at hand.
- Objective quality, which encompasses not only the quality goals as defined by professional rules (structural quality) or the tax advisory firm (procedural quality), but mainly the quality and service itself. Objective quality relates to the service's professional correctness, timeliness, and its provision in the anticipated form;
- Subjective quality; since the client is not familiar with the professional value of the service rendered, he or she applies other quality measures. Subjective quality include a positive attitude to the client, informing it in a timely fashion and in a comprehensible form, explaining the effects of business decisions on tax matters;
- Innovative quality, the purpose of which is to improve the attained level of quality of services and to optimize and continuously improve business processes;
- Applicable quality, the highest level of which is reached when the quality is verified and confirmed by an independent evaluator or when the advisor obtains a quality certificate.

In terms of the level of quality we differentiate between:

- Minimum quality standards, where the minimum quality standard is achieved when tax regulations and rules of the profession are adhered to;
- Security quality standards, which assume that in tax advisory, it does not suffice to only consider legislation and professional guidelines, as services must be provided in a constant, predetermined manner;
- "Client utility" standards, which presuppose that lawful and well-planned services cannot be of a high quality unless they have a useful value for the client.
- Client comfort standards, which imply that the tax advisor must provide individualized and non-standard services to the client;
- Combined quality standards, from which it follows that when the tax advisory firm provides professionally correct, tailor-made services, it reaches a higher quality;
- Top quality standards; at this level, the tax advisory firm engages external independent assessors and/or evaluators to evaluate the quality level attained and strives towards top quality standards (best practices).

Lastly, in terms of the quality instrument, we differentiate between:
- Professional rules of conduct, which are the basis of professional and lawful tax advisory services. They concern "objectively determinable quality" and encompass conditions for conducting the profession, namely independence, responsibility, secrecy, proficiency and professional liability insurance.
- Risk management, which is a preventative instrument aimed at protecting the tax advisor from risks. Risk management does not directly improve quality, but it does continuously analyses risks and allows a risk prevention design.
- Quality management, which encompasses management's activities in relation to establishing a quality system, such as the quality policy, quality goals, allocation of responsibilities and asset-based system implementation, including quality planning, managing and assurance.
- Quality assurance, which encompasses planned and systematic activities within the system that are supported by management, staff, clients and the public.

Risk management as a function of the activity's quality. In tax advisory services, risk management can be understood as a combination of measures aimed at mitigating or reducing risks and it is a consistent part of the quality system, which reduces the number of claims and loss events and improves the quality of services. Risks that tax advisors are exposed to can be categorized into two groups – risks originating from clients and from the tax advisor. The risks originating in advisor can be further divided into two. The first comprises business risks due to operating on the market, while others include professional risks arising from the profession. The most significant is the risk of providing incorrect advice. The specific characteristics of ever-changing tax legislation, as well as the differing interpretations of it often generate doubt in final decision. Due to their unfamiliarity of tax legislation and its differing interpretations, clients often believe that their tax advisors are to blame for mistakes. Tax advisors can avoid these risks by recognizing them and introducing appropriate measures.

Some authors (Richardson et al, 2013) mention that tax risks include the risk of paying less tax than is required under the tax legislation, and the reputational damage arising from such errors can result in additional costs. Consequently, the board has an important obligation to participate in tax-risk management so that the right balance is created between risk and opportunity in the firm. Therefore tax represents an essential component of the risk management system and internal controls. All else being equal, firms in which the board of directors establishes an effective risk management system and internal controls are less likely to engage in corporate tax aggressiveness. Tax aggressive behaviour, which has been defined as the downward management of taxable income through tax-planning activities (Richardson et al, 2013) therefore encompasses tax-planning activities that are legal or that may fall into the gray area, as well as activities that are illegal. Hence, tax aggressiveness can range along a continuum with many cases falling in the disputed gray zone on that continuum and can be used interchangeably with tax avoidance, tax management and tax shelters. Authors suggest that this kind of behavior could be prevented by strengthening controls or the power of authority. Lavemicocca (2011), for example, showed that the use of a big-4 audit firm can have a major influence on the level of tax aggressiveness in the firm. Utilization of a big-4 audit firm may help to reduce the tax aggressive activities of the firm through enhanced monitoring and higher quality audit. Big-4 audit firms are more likely to detect financial statement fraud than non-big-4 audit firms because they have greater ability to resist client pressure, have more concern for their reputation, have greater resources in terms of technical expertise and technology, and have a more developed and systematic audit strategy and process in place. Similarly Baur (2011) stresses that a negative relation between tax avoidance and company-level tax ICWs (internal control weakness) is evidence consistent with inadequate tax risk management procedures or resources leading to less tax avoidance. A positive relation between tax avoidance and company-level tax ICWs is evidence consistent with a lack of controls that allows opportunities for risky tax strategies and more aggressive tax avoidance by management. Similarly, legal regulation of this area would strengthen the control, authority and minimize the risk.

Analysis of tax advisory services in Slovenia and suitability of regulation model

According to Moran (2010), a European regulatory policy on economic government establishes broad rules (like Directives) in consultation with affected interest parties, consequently heavily involving those interests in shaping their rules into practical measures within individual national economies, individual sectors and even individual enterprises. To make a synthesis of fragmented area on tax advisory business in Slovenia, this paper also offer a preview of an actual situation.

Although in Slovenia tax advisory profession is covered by two institutions, Slovenian Audit Institute and the Chamber of Tax Advisors, it has not yet become fully developed as both organizations have only 167 licensed advisors[2]. Compared to the number of advisors in Germany[3] (over 88,000), we can conclude that Slovenia has too few licensed tax professionals, in addition to licensed tax advisors, tax advisory services are also provided by accounting service providers, bank clerks, attorneys at law and notaries public. In the above groups, tax advisory services mainly occur as a result of their everyday work, thus such services cannot be deemed planned advisory services. This unplanned development has resulted in tax advisors having varying degrees of knowledge offering services of a

[2] Čokelc S. (2011).
[3] BStBK – Bundesteueberaterkammer, 2011.

varying quality. Since the initial costs of entering the profession are low, some persons without appropriate education, experience and professional liability insurance provide tax advisory services. As a result, we decided to ask providers and clients about services.

With a view of finding the most optimal model we studied and interviewed relevant stakeholders to find the optimal combination between quality, social responsibility, and risk, as well as between the various legal frameworks of regulating services. We identified four possible models of regulating tax advisory services:

- *The first model, under which the Tax Advisory Act determines the conditions for obtaining the title of Tax Advisor, as well as the rules of conduct*. Persons without the title may not provide tax advisory services.
- *The second model, under which Law gives professional organization the concession for performing training awarding the title and supervising tax advisors*. Law protects the title of Tax Advisor. This model allows services to be carried out by unlicensed persons, although they must not use the title of Tax Advisor.
- *The third model, under which together with professional organizations, the Ministry of Finance, on the basis of the Tax Advisory Act, awards the title of Tax Advisor and supervises tax advisors, while the Ministry awards concessions for training to other organizations.* This model allows services to be carried out by unlicensed persons, although they must not use the title of Tax Advisor or Tax Practitioner.
- *The fourth model, under which tax advisory services remain unregulated.*

The results of our study of the quality and regulation of tax advisory services are summarized below, including participant responses from service provider side and client side, divided on perception of quality, professional risk and legal regulation of the tax advisory services. On the basis of listed response, in the summary we suggested the optimal model of regulating tax advisory services.

2. Methodology

We have conducted an empirical survey to get insight into little-explored field of tax services in Slovenia both form user's and provider's perspective with focus on quality assessment, risk factor estimation and suggestion on how to implement those fields within most functional legal framework for Slovenia.

The ground hypothesis that the survey is based on, were: a) most important criteria when choosing tax advisor is quality of tax advice services, b) to perform quality and responsible (reliable) tax advisory service tax advisors must develop risk management function and c) The importance of quality of tax advice service goes beyond actual client's need and seizes to public as a whole because of increased trust in tax return calculations and accountants bilances. On the basis of our hypothesis we were interested in co-relation of following factors: tax advisory quality, risk-management in tax advisory services and legal regulation of tax advising in compliance with EU legal framework. The purpose of the survey therefore was to assess whether higher quality of tax advisory services and professional risk minimized and which model of legal regulation, exercised in different EU countries, could be most appropriate for Slovenia.

Figure 1: Co-relation of factors

Source: Čokelc, S. (2011)

We have been measuring classification of quality factors for tax advisory services, as perceived by both users of those services and tax advisory service providers, trying to define the difference between them. At the same time we were also assessing and measuring possible risk factors at tax advisory services as perceived by users.

The questionnaire has been formed on the basis of Fisher (2004) and Peske's (2000) previous surveys on quality of tax services.

Our study included:

- Small, medium-sized, and large companies, where the questions related to how they perceived tax risks, whether they make use of tax advisory services, who provides services, which factors were most important when choosing advisor, which are the main factors of quality and how they perceive such quality, which measures would improve the quality of tax advisory services and which regulative mechanisms should be used to limit entry to the market [4].
- Tax advisory service providers, where we surveyed independent tax advisors, audit companies and accounting service providers, and in-house tax advisors. The questions related to their opinion of the status of services in Slovenia, their perception of quality, the impact of quality on obtaining new clients, their perception of risks and responsibility to clients, the public and the legislator[5].

Results were processed with SPSS package, providing appropriate descriptive and inference statistical test for analysis and conclusions.

[4] Total of 1500 questionnaires were sent to the companies, which are tax advisory service users, of wich 830 to small, 463 to medium and 207 to large companies. Response ratio was around 32%.
[5] Total of 1465 questionnaires were sent to the service providers. Response ratio was around 25%.

3. Results and discussion

3.1. Perception of the quality of tax advisory services

Responses by ***clients*** on quality can be summarized as follows:

a) Means of choosing tax advisor:

Tax advisory clients mainly choose their tax advisor based on recommendations of other users (53%) and as a result of the advisor's professional recognition (22%). The results show that a significantly greater proportion of small enterprises compared to medium-sized or large enterprises randomly select their tax advisor (large companies in least cases). In contrast, as the company size grows, so does to a statistically significant degree the proportion of responses that the selection was a result of attending the tax advisor's lectures – 12.7% of small, 19.7% of mid-size and as much as 32.5% of large enterprises gave such a response.

b) Decisive competitive factors when selecting tax advisor

The most important competitive factor when selecting one's tax advisor is the latter's professionalism. Trust in the tax advisory services provider, personal relationship with the tax advisor and the tax advisor's public image follow. The quality of services rendered is a significantly more important factor when choosing advisor (88%) than the price (5%).

c) Quality attributes

When assessing quality, clients find most important: acting in accordance with tax legislation, jurisprudence and professional guidelines (79.6%), practical experience (52.4%), timely delivery of services and cost (45.2%) and understanding the client needs (44.3%), d) The following statistically significant differences were noted in respect to the main factors of quality tax advisory services per company size: the advisor's practical experience, response and understanding of the client, his or her needs and expectations. As the company size increases, more often is practical experience of the tax advisor cited as an important factor of quality – in large companies, the share is 63%, while it is only 48.6% in small companies. Similarly, large companies to a greater degree appreciate the tax advisor's quick response as well as the advisor's understanding clients need. Outcome quality[6] (mean value of 1.3) is most often cited as the most important quality factor (on a scale from 1 to 4), followed by procedural quality (2.27), client quality (2.64), and service provider quality (3.19). No statistically significant differences per company size were noted.

On the other side, factors of quality ***that tax advisory service providers*** find as most important were:

[6] *Outcome quality:* substantive correctness of the service, approval of the service by the tax authorities and judicial bodies, managed documentation, correctness of tax returns, explanations of tax legislation to the client, management of disputes and client complaints; procedural quality: formal process of service delivery, length and duration of service delivery, response rate of the firm, office atmosphere, overall attitude of members of staff towards the client, handling the client's documentation; client quality: preparedness to cooperate with the advisory and to be included in the service delivery, communicating with the tax advisor; service provider quality: location of advisory firm, appearance of the office, number and professional level of employees, opening times, external recognisability of the office, recommendations of satisfied clients, charisma and recognition of members of staff.

a) Quality attributes: acting in accordance with tax legislation (81.3%), followed by practical experience of tax advisors (59.1%), response rate and understanding the client, his or her needs and expectations (49.8%), personal traits of tax advisors (45.5%) and timely delivery of services in the anticipated form and the cost-benefit ratio (44.7%). Individualized approach to the client and the status of the tax advisor are viewed as the least important factors. Statistically significant differences among service providers appeared only in terms of their individual approach to clients. The test show significant differences in the following: individual approach to the client, status of the tax advisor (chartered or not), and personality traits of tax advisors. Tax advisory service providers attribute significantly more value to individual treatment of the client than the clients themselves. At the same time, service providers attribute more importance to the status of advisor and his or her personal traits than clients.

b) Importance of quality factors: Outcome quality is most often cited as the most important quality factor and has the lowest mean vale of 1.51 (on a scale of 1 to 4); the mean value of procedural quality is 2.5 while the mean value of client quality is 2.8. When classifying quality factors per importance, service providers are in accord, as they classified outcome quality (top classification) as the most important (in between 70% to 74% of cases). The mean values of service provider quality are notably lower in the case of tax advisors. We noted no significant differences in the classification of the factors that all groups of tax advisory services classify as most and second most important. Tax advisory service providers more often than their clients cite quality of the service provider. To significant degree, clients classify other aspects of quality (procedural quality and outcome quality) higher than service providers. For graphic presentation and result matrix see also (fig. nr. 3) in Appendix.

3.2. Perception of risk derived from tax advisory services

The findings derived from ***clients*** and their perception of risk can be summarized as follows:

a) Regardless of company size, clients use tax advisory services to reduce the risk of non-compliance with legislation (61%), criminal risk (54.3%), professional risk (40.0%), business risk (36.9%), and inspection risk (32.4%). In this regard, no statistically significant differences among companies of different sizes were noted,

b) Regardless of company size, tax advisory service clients affirm that professional liability insurance was an important factor when selecting advisor (86%), while only 8% responded that insurance was not important. Regardless of their size, clients confirm they would claim against the insurance policy if the advisor made a professional error (73.5%).

The findings of ***tax advisory service providers*** on

a) the perception of risk can be summarized as follows: For tax advisory service providers, the most important risk is the risk of non-familiarity with tax legislation and jurisprudence (43.6%), followed by the inspection risk (38.5%), risk of professional error (35.0%), price non-competitiveness (33.1%), and non-management of operational risks (32.3%). The loss of the public's and clients' trust, competitiveness due to low service quality, and often complaints of unhappy clients are viewed as less important risks. The following statistically significant differences appeared among tax advisory service providers: professional errors, non-managed operative risks, often complaints of unhappy clients, and the loss of the public's and clients' trust.

b) Tax advisors recognized the following most important business risks of the tax advisory firm: reduction in service fees (49.8%), loss of key clients (46.3%), unprofessionalism of members of staff (42.0%), too few clients (38.9%), loss of key staff members (31.5%), and claims due to errors (24.5%). They recognize financial risks, the entry of new competitors to the market, lacking employee motivation, excessively high employee expectations, inadequate IT support and costs of replacing lost clients as the least important business risks. The following statistically significant differences were noted between different groups of tax advisors concerning operational risks: reduction of fees is most often cited as a business risk by chartered auditors (around 60%), by about a half of tax advisors and accounting service providers, and by only 30% of chartered tax advisors. The loss of key members of staff was cited as a risk by 40% of chartered tax advisors, tax advisors and chartered auditors, and by only around 20% of accounting service providers. All four groups view the entry of new competitors to the market as a lesser risk, although there are statistically significant differences among the groups as follows: accounting service providers (27%), chartered auditors (24%), chartered tax advisors (12%) and tax advisors (5%). At the same time, 32% of accounting service providers cite financial risks among key risks, while the share in the other groups is around 13%.
c) The following risk mitigation instruments are most important for tax advisors: cooperation with other tax advisors, auditors, accountants, surveyors, attorneys, professional organizations (72.4%), planning tax advisor training (59.5%), rejection of risky client acceptance (56.4%), professional liability insurance (46.7%), and rejecting problematic clients (45.5%) Use of internal controls and quality certificate are less important risk mitigation instruments. For graphic presentation and result matrix see also (fig. nr. 4) in Appendix.

3.3. Perception of legal regulation of tax advisory services

The findings derived from ***clients*** on the suitability of the legal regulation of tax advisory can be summarized as follows:
a) Tax advisory service clients recognized the legal regulation as the most important measure for improving quality (59%). This is followed by internal supervision (33%) and acquiring a quality certificate (15%). The following statistically significant differences between service clients were noted: legal regulation of tax advisory services and internal control in the tax advisory firm. Larger firms more often view that legal regulation of tax advisory services is the most effective route to improving their quality. To a statistically significant degree, smaller firms more often than mid-sized and large firms view that quality could be improved with internal controls in the firm.
b) Regardless of their size, tax advisory service providers recognized all three models of legal regulation as suitable, while they rejected the fourth model, under which tax advisory services would remain unregulated. Model 1 received 37.6%, model 2 30.2%, model 3 26.4%, and model 4 5.8% of the vote. In terms of the suitability of legal regulation of tax advisory services in Slovenia, we found no statistically significant differences per company size.
c) Service clients view the following regulative mechanisms barring market entry as important: practical experience (75%), certificate (71%), and formal education (47%), while recommended prices and price fixing were viewed as unimportant. Our statistical test of service providers and clients showed significant differences in the following statements on regulative mechanisms barring market entry: practical experience, professional exam,

certificate and recommended prices. Users of tax advisory services more often than service providers believe that practical experience and recommended prices should be introduced as regulative mechanisms barring market entry. In contrast, service providers more often cited the professional exam (certificate) than service users. No statistically significant differences in the responses concerning other offered regulative mechanisms appeared.

On the other side, findings on the suitability of the legal regulation of tax advisory from the view of ***tax advisory services providers*** can be summarized as follows:

a) Providers of tax advisory services viewed legal regulation of the profession as the most important measure improving service quality (76%), followed by internal control (28%) and acquiring a quality certificate (17%). Differences in service provider responses appear only with regards to acquiring a quality certificate. To significant degree, service providers more often than their clients view that legal regulation is the most effective route to improving the quality of services.

b) Tax advisory service providers recognized all three models of legal regulation as suitable, while they rejected the fourth model. Model 1 received 40.4%, model 2 29%, model 3 27%, and model 4 10.6% of the vote. No statistically significant differences were noted in the views of various groups of service providers in terms of model suitability, while service providers statistically significantly more often than their clients support the second model. At the same time, they to a statistically significant degree more often that their clients support leaving tax advisory unregulated. In terms of the other two proposals, there are no statistically significant differences between service providers and their clients.

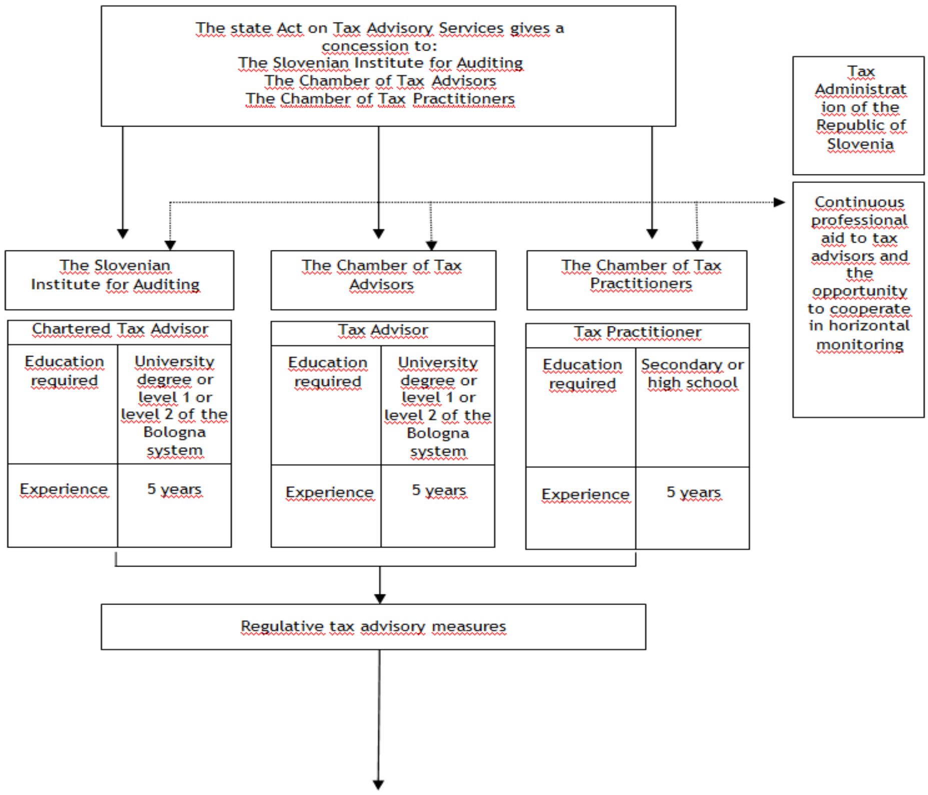
c) For service providers legal regulation mostly affects their handling of tax law (66%), followed by the reliability and correctness of advice (65%), status of the tax advisor (50%), compliance with guidelines, as well as practical experience of advisors (48%). The legal regulation to a lesser degree affects the practical experience of tax advisors, specific industry know-how, the cost-benefit ratio, personal traits of tax advisors, their response rate and understanding of their clients, their individual approach to clients and timely provision of services.

d) Responses of accounting service providers significantly differ from the responses of the other groups. Most chartered auditors (70%) view that the legal regulation of the field would most positively contribute to professional guidelines, which is slightly higher than the share of chartered tax advisors (64%), tax advisors (58%) and accounting providers (32%). Around 60% of chartered tax advisors, tax advisors and chartered auditors agree that the legal regulation of tax advisory services would affect the tax advisor's status, while only 40% of accounting service providers agreed. Accounting service providers are to a greater degree of the view that legal regulation of the field would affect the practical experiences of tax advisors (42%). This is a view shared with only a quarter of chartered tax advisors and tax advisors, and only 17% of chartered auditors. Similar findings apply to industry-specific know-how. Service providers believe that the tax advisor should have at least a university degree and five years of experience, and believe the following are desirable regulative mechanisms barring entry to the market: professional exam (82.5%), practical experience (66.1%) and formal education (51.7%). Price fixing and recommended prices are viewed as unimportant regulative mechanisms. Significant differences were noted when comparing the responses of different groups of service providers. The response “practical experience” was most often given by accounting service providers (75.4%), followed by chartered tax advisors (62%), tax advisors (57.9%) and chartered auditors (only 50%). In contrast, 100% of chartered tax advisors, 94.7% of tax advisors, 92.6% of chartered auditors, and only 70.1% of accounting service providers wish the professional exam would be introduced as a regulative mechanism. For graphic presentation and result matrix see also (fig. nr. 5) in Appendix.

3.4. Summary of empirical findings

On the basis of our empirical findings we have proposed a model that refers to situation on tax advisory services in Slovenia, including practical experiences, estimations and expectations of clients and providers of tax advisory services. The model proposes options for various tax advisory service providers, but requires for them to be joined in professional organization and provide professional liability insurance. Therefore three levels of tax advisory responsibility are presented. First level is level of tax advisory company, represented by licensed tax advisor. Second level is professional business association, which authorizes license permits, supervises (and penalizes) tax advisory service providers. Third level is represented by the state, who supervises inclusion of national legal tax advisory regulation to be in line with European law.

Figure 2: Proposed legal regulation of tax advisory – "Model 2"



The state should legally regulate the activity by:

- Giving concessions to professional tax advisory organizations;
- Protecting the professional title of Tax Advisor and Tax Practitioner;
- Binding professional organizations to adopting professional and ethical rules ensuring the secure and diligent operation of tax advisors;
- Defining the conditions for performing tax advisory services;
- Requiring professional liability insurance;
- Ensuring public records of tax advisors and tax practitioners; defining the minimum level of education and determining the conditions of obtaining licenses;
- Together with professional organizations, naming a Committee charged with awarding the Tax Advisor and Tax Practitioner titles;
- Together with professional organizations, providing professional assistance to tax advisors and practitioners, preventing them from giving incorrect tax advice. This represents strengthening responsibility for high quality tax advisory services;

Binding professional organizations to establishing a quality management system for tax advisory services, which should be independent and subject to public scrutiny, financed securely and without undue influence of tax advisors, have appropriate human and financial resources, ensure tax advice is provided by people with an appropriate professional education, appropriate experience and training, ensure an objective procedure for selecting supervisors, thus preventing conflicts of interest between supervisors and supervised persons, and after supervision, clearly note any findings in the report and ensure annual publication of results relating to tax advisory.

The state should legally bind professional organizations to appoint committees for performing inquiries and handing disciplinary measures and sanctions.

4. Final Conclusions

Based on findings we prepared a model of the legal regulation of tax advisory services (fig. nr. 2). The proposed legal regulation is in accordance with EU law and allows tax advisory services to be carried out by unlicensed persons, although they must not use the title of Tax Advisor or Tax Practitioner. By legally regulating tax advisory services, the responsibilities of tax advisors and tax practitioners become broader and include their civil liability towards their clients and third persons with who they have no contractual relationship, professional liability of experts and providers of professional services, as well as criminal liability, due to the fact that both tax advisors and tax practitioners can be accessories to tax fraud when they act unlawfully for the benefit of their client. Despite the fact that both tax advisors and tax practitioners work for the benefit of their client, they also represent the public interest as they respect and enforce trust in tax regulations and ensure their effective implementation. As a result, tax advisory services serve as protector of tax law.

During our survey aimed to answer exposed questions about taxation quality and regulation we reached some findings that seem to be very promising for further research and scientific investigation.

1. A model of internal and external quality control of tax advisory offices: Legal regulation of tax advisory services itself might not be sufficient condition to assure quality and reputation of tax advising.

2. A model of horizontal monitoring with Tax administration of Republic of Slovenia. In order for the model to be successfully implement, several interactive models need to be developed. This model is based on trust into tax advisory work and in the basis for it there is cooperation between tax government and tax advisors or proposed tax practioneers. This suggested cooperation requires further investigation on different levels to be clearly presented.

5. References

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Appendix: Figures 3-5

Figure 3: Factors of quality tax advisory services

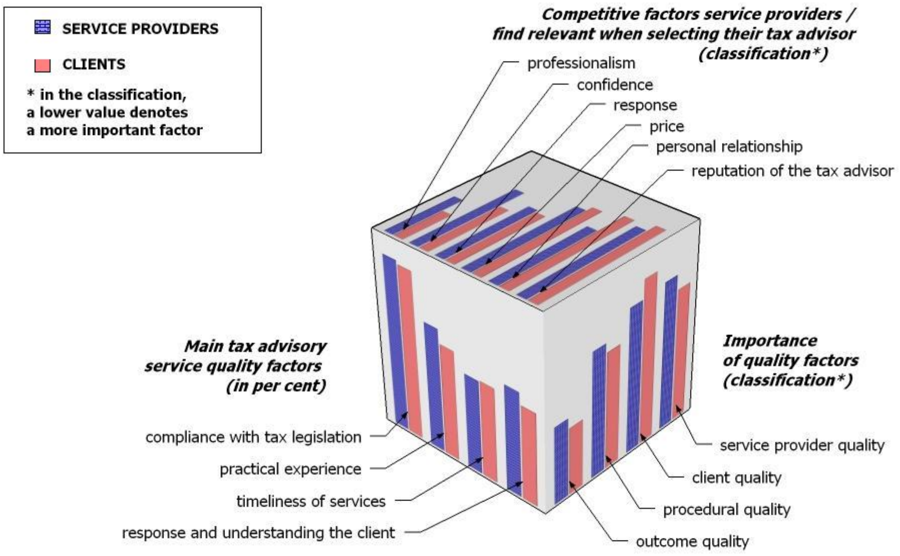

Figure 4: Risk factors related to tax advisory services

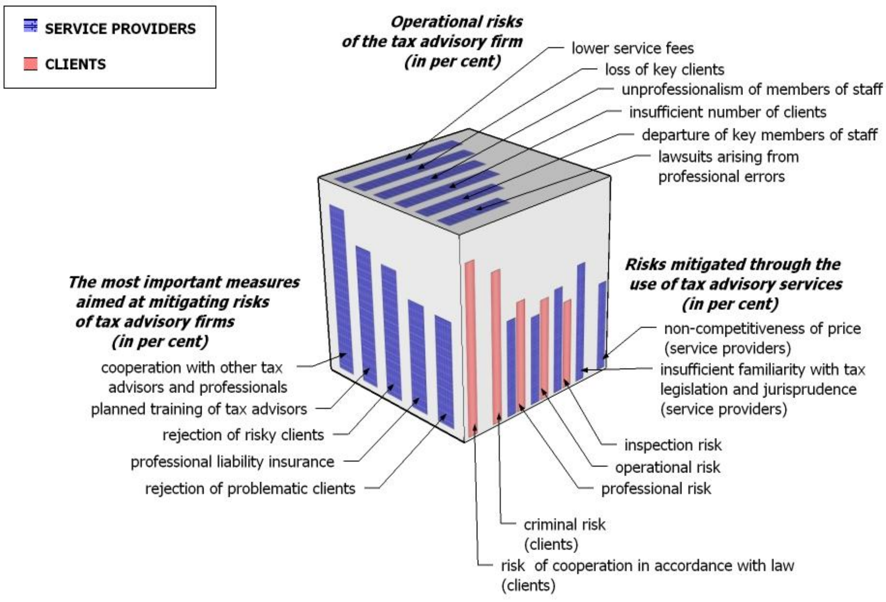

Figure 5: Suitability of the legal regulation of tax advisory services