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UTICAJ DONESENIH DRUGOSTEPENIH PORESKIH UPRAVNIH AKATA NA BUDŽET REPUBLIKE SRBIJE

Rezime: Poreska uprava, kao jedan od najznačajnijih državnih organa koji učestvuje u procesu ubiranja javnih prihoda, između ostalih funkcija koje obavlja, ima i nadležnost u donošenju poreskih upravnih akata kojima utvrđuje visinu poreske obaveze koju su poreski obveznici dužni da plate. Poreski obveznici, sa druge strane, traže pak način za poresku evaziju utvrđenog poreza ili tragaju za načinom na koji bi poresku obavezu smanjili u što većoj meri. U tom procesu, aktivnosti i jedne i druge strane imaju uticaj na budžet u smislu visine naplaćenog poreza. U radu su data prava i obaveze Poreske uprave u delu koji se odnosi na donošenje poreskih upravnih akata, sa akcentom na drugostepeni poreski upravni postupak jer on direktno utiče na visinu naplaćenih prihoda. Takođe, data su i objašnjenja koja se tiču poreskih obveznika u procesu donošenja poreskih upravnih akata, sa fokusom na institut žalbe u tom postupku. Prikazani su i dostupni podaci na osnovu kojih su i izvedeni pojedini zaključci.

Ključne reči: poreski postupak, budžet, drugostepeni organ, lokalna samouprava, žalba

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1. Uvod

Predmet rada je analiza uticaja upravnih akata koje donosi Poreska uprava na javne prihode. Rad je sačinjen od šest delova u kojima je definisana nadležnost Poreske uprave i pravnih normi na kojima svoj rad bazira. Između ostalog, akcenat je dat i na instit žalbe, čiji se efekti mogu negativno odraziti na prihode bužeta. Pored definisanja nadležnosti organa Poreske uprave u trećem delu rada, u četvrtom su prikazani rokovi postupanja tih istih organa u postupku odlučivanja po žalbi, dok peti deo govori o negativnim posledicama u slučaju prekoračenja tih rokova. Šesti deo rada bavi se mehanizmima i pravnim lekovima kojima stranka, nezadovoljna drugostepenim upravnim aktom, može pribeći.
Pored dobrovoljnog izmirivanja poreskih obaveza koje je poreski obveznik utvrdio samooporezivanjem (Radičić & Raičević, 2011), poreska administracija donosi rešenja u postupku utvrđivanja poreske obaveze, u postupku kontrole poštovanja poreskih propisa i pravilnog utvrđivanja poreske obaveze (Milojević, 2010) od poreskog obveznika (Dobos & Takács-György, 2020, str. 78) i u postupku prinudne naplate utvrđenih, a neizmirenih poreskih obaveza. Rešenje poreskog organa može se pobijati žalbom u drugostepenom postupku i upravnim sporom. Žalba je redovno pravno sredstvo kojim stranka može da osporava zakonitost ili pravilnost rešenja donetog u prvostepenom poreskom upravnom postupku kojim su mu utvrđena prava i obaveze. Stranka nezadovoljna prvostepenim rešenjem inicira žalbom drugostepeni postupak. Pravo na žalbu imaju stranke u postupku – Poreska uprava i poreski obveznik, odnosno ostali poreski dužnici (Lazić, 2018, str. 11). Kada je o pravima ili obavezama odlučeno ožalbenim rešenjem, lice može podneti žalbu kao i svako drugo lice koje u postupku ima interes (kao što je poreski jemac ili lica odgovorna po osnovu sekundarne poreske obaveze).

2. Nadležnost državnih organa u drugostepenom poreskom upravnom postupku

U ovom delu će biti reči o pravnim normama kojima je Poreskoj upravi dato pravo da odlučuje o poreskim upravnim aktima, o vremenskim odrednicama početka tog prava, kao i organizaciji Poreske uprave.

Ustav Republike Srbije („Službeni glasnik RS“, broj 98/2006 – nadalje: Ustav) garantuje dvostepenost u upravnim postupcima. Odredbom člana 198 stav 1 Ustava propisano je da „Pojedinačni akti i radnje državnih organa, organizacija kojima su poverena javna ovlašćenja, organa autonomnih pokrajina i lokalne samouprave, moraju biti u skladu sa zakonom.“ Ustavom, i to članom 198 stav 2, predviđeno je „O pojedinačnim aktima kojima se odlučuje ili definiše pravo ili obaveza, njihova se zakonitost može preispitivati ili utvrđivati pred sudom i to u upravnom sporu.“

U skladu sa Zakonom o ministarstvima, konkretno članom 3 („Službeni glasnik RS“, br. 128/20), nadležni organ u postupcima po žalbi na prvostepena poreska rešenja, doneta u postupku utvrđivanja, kontrole i naplate od Poreske uprave i lokalne poreske administracije, jeste Ministarstvo finansija – Sektor za drugostepeni poreski i carinski postupak (u daljem tekstu: Sektor).

Do 30. juna 2017. godine, a u skladu sa tadašnjom pravnom normom objavljenom u Zakonu o poreskom postupku i poreskoj administraciji („Službeni glasnik RS“, br. 80/02, 84/02, 23/03, 70/03, 55/04, 61/05, 85/05, 62/06, 62/06, 61/07, 20/09, 72/09, 53/10, 101/11, 2/12, 93/12, 47/13, 108/13, 68/14, 105/14, 91/15, 112/15 i 15/16), bilo je na snazi organizaciono rešenje kojim je utvrđena nadležnost Poreske uprave za postupanje u drugostepenom poreskom upravnom postupku. To je značilo da se u istom organu donosilo i prvostepeno rešenje, a u slučaju žalbe i drugostepeno. Članom 25, stav 11 izvršene su izmene i dopune Zakona o poreskom postupku i poreskoj administraciji i objavljene u „Službenom glasniku RS“ 108/2016. Njima je propisano da će od 1. jula 2017. godine nadležni organ za postupanje po žalbi na rešenja Poreske uprave i lokalne poreske administracije, u delu izvornih javnih prihoda, biti osnovna unutrašnja organizacijska jedinica Ministarstva finansija, tj. Sektor za drugostepeni i carinski postupak. Ovakvo rešenje je pre svega imalo za cilj otklanjanje odlučivanja u istom organu, u poreskim upravnim stvarima i u prvostepenom i u drugostepenom postupku (Nikodijević, 2019, str. 119), a imajući u vidu pri tome pojavu da su rešenja u prvostepenom i drugostepenom postupku donosila ista lica zaposlena u filijalama i ekspoziturama, tj. u organizacionim jedinicama Poreske uprave.

Sektor je nadležan za: „Rad i obradu žalbi podnesenih na rešenja koja su donesena u organima Poreske uprave i poreskih organa u lokalnim samoupravama u prvom stepenu odlučivanja. Organi Sektora izrađuju rešenja i dostavljaju odgovore sudskim organima kada se pred sudom pripremaju i izrađuju rešenja za primenu vanrednih pravnih sredstava i odgovora na tužbe nadležnom sudu protiv rešenja donetih u poreskom i carinskom upravnom postupku. Odlučuje po pravnim lekovima uloženim protiv carinskih upravnih akata carinarnica donetih u prvostepenom carinsko-upravnom postupku koji se odnose na primenu propisa iz oblasti carinskog sistema. Izrađuje rešenja u izvršenju presuda suda nadležnog za rešavanje upravnih sporova i vrši analizu poresko-upravne sudske prakse u primeni propisa iz svog delokruga.“ (Informator o radu Ministarstva finansija, 2020, decembar). Sektorom rukovodi pomoćnik ministra.

U organizacionom smislu, Sektor ima sistematizovana četiri mesta na poslovima koordinacije u drugostepenim poreskim upravnim predmetima. Dalja organizacija podrazumeva primenu teritorijalnog principa organizovanja, tj. četiri odeljenja za drugostepeni poreski postupak i to u Beogradu, Novom Sadu, Kragujevcu i Nišu.

3. Institut žalbe u poreskom postupku

Ovaj deo rada objašnjava mogućnost stranke da u postupku utvrđivanja poreske obaveze izjavi žalbu. Objasniće se šta je žalba, kada i kako je moguće izjaviti žalbu, odnosno nadležnost prvostepenog i drugostepenog organa u postupku odlučivanja po žalbi.

Zakonom o opštem upravnom postupku u članu 13 stav 1 („Službeni glasnik RS“, br. 18/16 i 95/18 – nadalje: Zakon o upravnom postupku) uređeno je da „Protiv rešenja donesenog u prvom stepenu, odnosno, ako organ u upravnoj stvari nije odlučio u propisanom roku, stranka ima pravo na žalbu, ako zakonom nije drugačije regulisano.“ Članom 151 i članom 159 Zakona o upravnom postupku uređeno je pod kojim uslovima se može izjaviti žalba. Takođe je pravo na žalbu i uslove pod kojima je žalba dopuštena definisano i članom 24 stav 1 tačka 13 i članom 140 Zakona o poreskom postupku i poreskoj admi-

nistraciji („Službeni glasnik RS“, br. 80/02, 84/02, 23/03, 70/03, 55/04, 61/05, 85/05, 62/06, 62/06, 61/07, 20/09, 72/09, 53/10, 101/11, 2/12, 93/12, 47/13, 108/13, 68/14, 105/14, 91/15, 112/15, 15/16, 108/16, 30/18, 95/18, 86/19 i 144/20 – nadalje: ZPPPA). Žalba je dopuštena stranci u slučaju da rešenje nije izdato u zakonom određenom roku. Protiv konačnog poreskog upravnog akta – rešenja, može se pokrenuti upravni spor, ako zakonom nije drugačije propisano. Tužba u upravnom sporu može se podneti kao da je žalba odbijena onda kada podnosilac tužbe istakne da o njegovoj žalbi odluka nije doneta u zakonskom roku. Žalba na prvostepeno rešenje izjavljuje se mesno nadležnom odeljenju u kome se nezadovoljna stranka nalazi. Pripremljeno drugostepeno rešenje potpisuje pomoćnik ministra nadležan za poslove drugostepenog poreskog upravnog postupka**.**

Prvostepeni poreski organ može usvojiti žalbu ako oceni da je opravdana i da nije potrebno sprovoditi novo utvrđivanje činjenica, ako oceni da je sprovedeni postupak bio nepotpun, a to je moglo biti od uticaja na rešavanje, ako žalilac u žalbi iznosi nove činjenice i dokaze koji bi mogli biti od uticaja na drukčije rešavanje stvari, ako žaliocu nije bilo omogućeno, a moralo je biti, da učestvuje u postupku i ako je žalilac propustio da učestvuje u postupku, ali je u žalbi opravdao to propuštanje. Ako je žalba nedopuštena, neblagovremena ili izjavljena od neovlašćenog lica, a prvostepeni poreski organ je propustio da je zbog toga odbaci, odbaciće je drugostepeni organ u skladu sa ZPPPA. Ako žalbu ne odbaci, drugostepeni organ uzima predmet u rešavanje i isti može da:

1) odbije žalbu;

2) poništi poreski upravni akt u celosti ili delimično;

3) izmeni poreski upravni akt.

4. Rokovi rešavanja u postupcima po žalbi

Podaci izneseni u ovom delu baziraju se na rokovima kojih organ u poreskom upravnom postupku mora da se pridržava, rokovi su iskazani na osnovu ZPPPA, a tabelarno će biti prikazan i broj podnetih žalbi po rešenjima teritorijalnih organizacijskih jedinica Poreske uprave.

4.1. Rokovi propisani ZPPPA

Prema odredbama člana 147 stav 4 ZPPPA drugostepeni organ, tj. Sektor, u žalbenom postupku je u obavezi da donese odluku najkasnije 60 dana od dana kada je predata žalba. Prvostepeni poreski organ, u poreskom postupku po žalbi, može usvojiti žalbu i poreski upravni akt izmeniti i na taj način izbeći devolutivno svojstvo žalbe. Mora se napomenuti da se tada radi i dalje o menjanju prvostepenog poreskog upravnog akta, tj. da prvostepni organ žalbu može rešiti bez njenog dostavljanja nadležnom drugostepenom organu shodno članu 144 stav 2 ZPPPA. U takvim slučajevima, a u skladu sa odredbama člana 144 stav 7 ZPPPA, poreski organ je dužan da donese odluku najkasnije 30 dana od kada je žalba podneta.

4.2. Rokovi drugostepenog organa u postupcima po žalbi

U praksi, a suprotno ZPPPA, drugostepeni organ odluku po žalbi donosi van zakonom propisanih rokova. Rokovi u kojima drugostepeni organ donosi odluku višestruko su duži i kreću se oko jedne godine i šest meseci od dana predaje žalbe, posmatrajući period od 1. jula 2017. godine kada je formiran Sektor, kao organizacioni deo Ministarstva finansija. Ako se posmatra kraći vremenski period, može se zaključiti da su u godini osnivanja Sektora, tj. u periodu od 1. jula 2017. do 31. decembra 2017. godine, organi rešavali žalbe na rešenja u roku od jedne godine i 11 meseci. Ovako dug period donošenja odluke drugostepenog organa posledica je, svakako, i velikog broja preuzetih predmeta od do tada drugostepenog organa – Poreske uprave. Prelaskom nadležnosti za postupanje u drugostepenom poreskom postupku na Ministarstvo finansija, ono je preuzelo 10.374 predmeta od do tada nadležne Poreske uprave. U 2018. godini došlo je do skraćivanja roka donošenja odluke po žalbi na jednu godinu i pet meseci. Međutim, u 2019. godini ponovo dolazi do produženja roka i on iznosi jednu godinu i osam meseci. S obzirom na teritorijalnu organizovanost Sektora, u nastavku je data tabela s rokovima u postupanju po žalbi Sektora.

Tabela 1

Preuzete, primljene i rešene žalbe u periodu po godinama (2017, 2018. i 2019)

Odeljenje	1. jul – 31. decembar 2017. god.			1. januar – 31. decembar 2018. god.			1. januar – 31. decembar 2019. god.		
	Preuzeto	Primljeno	Rešeno	Preuzeto	Primljeno	Rešeno	Preuzeto	Primljeno	Rešeno
Beograd	2.360	1.939	1.132	3.167	4.559	6.424	1.302	3.578	4.331
Novi Sad	4.109	2.466	905	5.670	4.214	6.639	3.245	2.679	3.574
Kragujevac	1.751	1.378	682	2.447	2.263	2.794	1.916	1.589	1.633
Niš	1.774	1.022	515	2.281	2.127	2.757	1.651	1.691	2.261
Carina	380	1.858	1719	519	2.453	2.481	491	1.860	2.135
Σ poreska odeljenja	9.994	6.805	3.234	13.565	13.163	18.614	8.114	9.537	11.799
Σ carina + por.odelj.	10.374	8.663	4.953	14.084	15.616	21.095	8.605	11.397	13.934

Izvor: Informator o radu Ministarstva finansija, decembar 2020. godine

Tabela 1a

Preuzete, primljene i rešene žalbe u periodu od 01. 01. do 30. 06. 2020. godine

Odeljenje	1. januar 2020 – 30. jun 2020. godine
	Rešeno
Beograd	1.927
Novi Sad	2.147
Kragujevac	920
Niš	924
Carina	579
Σ poreska odeljenja	5.918

5. Posledice prekoračenja rokova u postupku po žalbi

Utvrđena poreska obaveza ožalbenim rešenjem ne može se naplatiti prinudnim putem kada drugostepeni organ u postupku po žalbi ne postupi u skladu sa odredbom člana 147 stav 4 ZPPPA, odnosno kada donose odluku, a proteklo je 60 dana od dana kada je žalba predata, shodno članu 79 stav 1 pod 4) ZPPPA i članu 147 stav 6 ZPPPA. Takođe, ako je postupak prinudne naplate započeo (Janjetović, 2015, str. 41), isti

mora biti prekinut dok se poreskom obvezniku – žaliocu, koji je uložio žalbu na rešenje, ne uruči rešenje po žalbi, tj. dok prvostepeni organ ne postupi po nalogu drugostepenog organa kojim je poništeno ožalbeno rešenje, o čemu poreski organ donosi zaključak o prekidu postupka prinudne naplate, shodno odredbi člana 147 stav 6 ZPPPA. Poreska uprava je dužna da prekine postupak prinudne naplate i u slučaju kada se žalbeni postupak nije završio u datim rokovima, prinudna naplata se obustavlja sve do trenutka do kada se licu koje je uložilo žalbu na doneto prvostepeno rešenje ne uruči doneto rešenje drugostepenog organa, tj. dok prvostepeni organ ne postupi po datom nalogu drugostepenog organa i donese novo rešenje u ponovnom postupku.

Postupak prinudne naplate poreza obustavlja se po službenoj dužnosti kada je poreska obaveza, koja je predmet prinudne naplate, poništena. Dugim rokovima odlučivanja po žalbi, posebno u slučajevima ponovnog, odnosno ponovnih postupaka, može da nastupi zastarelost utvrđivanja i naplate poreskih obaveza. Institut zastarelosti u poreskom postupku predstavlja protok vremena posle kojeg prestaju izvesna prava i ovlašćenja ili prestaju određeni odnosi. Subjekt prava ne može svoja prava i ovlašćenja da koristi beskonačno. Stoga, zakonodavac daje rok u kom se prava i ovlašćenja mogu koristiti. Ako subjekt prava ne koristi svoja prava u propisanom roku, njegova prava i ovlašćenja prestaju, jer se smatra da onaj ko svoja prava i ovlašćenja ne vrši (ne koristi) i nema interesa da to čini, odriče ih se. Zastarevanje utvrđivanja i naplate poreza (Gogić, 2020, str. 22), Poreska uprava ili lokalna poreska jedinica neće moći da utvrdi ni naplati, a isto nastupa u roku od pet godina od dana kada zastarelost počinje da teče, shodno članu 114 stav 1 ZPPPA.

6. Upravni spor kao oponent donesenom drugostepenom poreskom upravnom aktu

Odluka drugostepenog organa u poreskim upravnim predmetima konačna je, odnosno ne postoji redovan pravni lek u daljem postupku po upravnom predmetu o kome je odlučio drugostepeni organ. Međutim, poreski obveznik, nezadovoljan drugostepenim poreskim upravnim aktom (rešenjem), može da podnese tužbu Upravnom sudu. Upravni sud je poseban sud obrazovan Zakonom o uređenju sudova

(„Sl. glasnik RS“, br. 116/2008, 104/2009, 101/2010, 31/2011 – dr. zakon, 78/2011 – dr. zakon, 101/2011, 101/2013, 106/2015, 40/2015 – dr. zakon, 13/2016, 108/2016, 113/2017, 65/2018 – odluka US, 87/2018 i 88/2018 – odluka US) i sudi u upravnim sporovima. U upravnom sporu sud odlučuje i o zakonitosti konačnih pojedinačnih akata kojima se rešava o pravu, obavezi ili na zakonu zasnovanom interesu, u pogledu kojih u određenom slučaju zakonom nije predviđena drugačija sudska zaštita. Zaštita poreskog obveznika kao stranke u postupku (Vladisavljević & Pešić, 2018, str. 94), s obzirom na kvalitet donetih rešenja u poreskim upravnim postupcima, dodatno produžava postupak koji poreski organ vodi prema poreskim obveznicima, jer presuda doneta u korist tužioca u upravnom sporu poništava konačno rešenje. Kada je predmet vraćen na ponovni postupak i odlučivanje, drugostepeni organ je obavezan da donese odluku o svemu prema nalogu suda. U takvim slučajevima će drugostepeni organ poništiti prvostepeno rešenje i ceo predmet vratiti organu koji je rešenje doneo na ponovni postupak i odlučivanje, a budžet će ostati uskraćen za iznos utvrđenog poreza ili ako ne potpuno uskraćen, onda će bar pretrpeti odlaganje plaćanja poreskog prihoda, što nesumnjivo utiče na likvidnost budžeta. Sve to produžava rokove odlučivanja u smislu pravnosnažnosti rešenja i dovodi do uvećanih troškova, kako na strani budžeta, tako i na strani poreskih obveznika. Ilustracija rada drugostepenog organa data je u nastavku.

Tabela 2

Struktura odluka u drugostepenom poreskom upravnom postupku i pokrenuti upravni sporovi u 2019. godini

Odeljenje	Poništeno rešenja		Odbijeno rešenja		Ukupno rešenja		Utuženo rešenja	
	Broj	**%**	**Broj**	**%**	**Broj**	**%**	**Broj**	**%**
Beograd	1.406	41,59	1.975	58,41	3.381	100,00	547	27,70
Novi Sad	1.660	54,27	1.399	45,73	3.059	100,00	142	10,15
Kragujevac	482	31,00	1.073	69,00	1.555	100,00	205	19,11
Niš	830	43,48	1.079	56,52	1.722	100,00	508	47,08
Σ (Ukupno)	**4.378**	**44,20**	**5.526**	**55,80**	**9.904**	**100,00**	**1.402**	**25,37**

Izvor: Ministarstvo finansija

Na osnovu iskazanih podataka može se zaključiti da se u postupku po žalbi poništava veliki broj prvostepenih rešenja, čak 44,20%. U 55,80% slučajeva drugostepeni organ je potvrdio prvostepeno rešenje, tj. odbio žalbu kao neosnovanu.

Međutim, postupanje drugostepenog organa nije ujednačeno, tako da se uočava da na nivou proseka Sektora postupaju odeljenja Beograd i Niš, dok odeljenja Novi Sad i Kragujevac beleže značajna odstupanja od tog proseka. Posmatrajući rad i rezultate rada po odeljenjima za drugostepeni postupak, može se zaključiti da je najmanji broj poništenih rešenja donelo Odeljenje Kragujevac – 31%, dok je najveći broj poništenih rešenja po nacrtima rešenja donelo Odeljenje Novi Sad – čak 54,27%. U odnosu na pokrenute upravne sporove, najnepovoljnija situacija je u Odeljenju Niš, gde se čak u 47,08% slučajeva, u kojima je odbijena žalba izjavljena na prvostepeno rešenje kao neosnovana, podnosi tužba Upravnom sudu, dok je najmanji broj utuženih konačnih rešenja Odeljenja Novi Sad – samo 10,15%.

U većini slučajeva, razlog zbog kog su se podnosile žalbe na donesena poreska rešenja bio je nepoštovanje rokova datih članom 140 ZPPPA, dok je manji deo podnesen zbog toga što postupak nije sproveden na pravilan način, tj. bio je nepotpun, baš kao i iznošenja drugih bitnih činjenica koje su od uticaja na rešenje i visinu poreske obaveze. (https://www.mfin.gov.rs).

7. Troškovi stranke u procesu osporavanja poresko-upravnog akta

Odredbama člana 85 i 87 Zakona o upravnom postupku propisano je ko snosi troškove postupka. U članu 85 stav 1 Zakona o upravnom postupku propisano je da troškove postupka snosi organ koji vodi postupak, dok je u stavu 2 istog člana propisano da taj organ snosi i troškove postupka koji je pokrenut po službenoj dužnosti i povoljno okončan po stranku, ako zakonom nije drukčije predviđeno.

Kada se donese rešenje o upravnoj stvari, u njemu se definišu i troškovi postupka. U slučaju kada drugostepeni organ sam reši upravnu stvar, on odlučuje o troškovima prvostepenog i drugostepenog postupka. U upravnom sporu o troškovima postupka odlučuje sud. U

postupcima u kojima stranka angažuje advokata radi zaštite svojih prava i u kojima uspe u postupku po žalbi, odnosno po tužbi na konačno rešenje doneto u drugostepenom poreskom upravnom postupku, troškovi postupka padaju na teret organa koji je vodio postupak čije je rešenje poništeno, kako je i definisano članom 24 ZPPPA.

Lice koje podnosi žalbu na donesen poreski upravni akt dužno je da, u skladu sa Tarifnim brojem 6 ili 7 Zakona o republičkim administartivnim taksama („Sl. glasnik RS", br. 43/2003, 51/2003 – ispr., 61/2005, 101/2005 – dr. zakon, 5/2009, 54/2009, 50/2011, 70/2011 – usklađeni din. izn., 55/2012 – usklađeni din. izn., 93/2012, 47/2013 – usklađeni din. izn., 65/2013 – dr. zakon, 57/2014 – usklađeni din. izn., 45/2015 – usklađeni din. izn., 83/2015, 112/2015, 50/2016 – usklađeni din. izn., 61/2017 – usklađeni din. izn., 113/2017, 3/2018 – ispr., 50/2018 – usklađeni din. izn., 95/2018, 38/2019 – usklađeni din. izn., 86/2019, 90/2019 – ispr., 98/2020 – usklađeni din. izn. i 144/2020 – nadalje Zakon o republičkim administartivnim taksama), plati taksu kako bi postupak bio iniciran tj. pokrenut. Trenutna taksa za podnošenje žalbe na rešenje Poreske uprave doneto u upravnom postupku iznosi 1.970,00 dinara, a u skladu sa Tarifnim brojem 7 stav 5 Zakona o republičkim administrativnim taksama.

Ako se rešenjem suda utvrdi da su prava poreskog obveznika povređena, naknada pretrpljene štete i sudski troškovi padaju na teret budžeta Republike, odnosno na teret budžeta jedinica lokalne samouprave, a na osnovu člana 24 stav 3 ZPPPA.

U poreskom postupku Poreska uprava ne plaća takse, naknade, niti druge troškove za radnje i usluge koje joj, u tom postupku, pružaju državni organi, organi nadležni za vođenje registara, banke i drugi organi i organizacije shodno članu 166 ZPPPA.

U ovom delu se mogu spomenuti i troškovi utvrđeni advokatskom tarifom i predstavljaju nagradu advokata za njihov rad, tj. podnete podneske, žalbu, tužbu i učešća na ročištima u vezi sa konkretnim poreskim postupkom, odnosno upravnim sporom.

Tabela 3
Advokatska tarifa u poreskom upravnom postupku i upravnom sporu

Podnesak	Ročište	Žalba
30.000,00 dinara	31.500,00 dinara	60.000,00 dinara

8. Zaključak

Uspešnost rada Poreske uprave i uprave prihoda jedinica lokalne samouprave ceni se prema ostvarenoj naplati poreskih prihoda (Pantić, Jovanović, & Issa, 2019, str. 43), jer se samo njihovom kontinuiranom naplatom obezbeđuje nesmetano finansiranje funkcija iz nadležnosti države i lokalne samouprave (Đorđević & Krstić, 2020, str. 12). Prema tome, samo efikasna, kontinuirana i potpuna naplata poreza od svih poreskih obveznika predstavlja osnovni i najvažniji zadatak poreske administracije (Popović, 2014).

Imajući u vidu da su u 2019. godini bila utužena čak 1.402 konačna rešenja drugostepenog organa u poreskim upravnim predmetima, dobija se rezultat koji direktno uvećava rashode i izdatke budžeta. S obzirom da je u radu već navedeno da su razlozi zbog kojih su se osporavala kako prvostepana rešenja organa Poreske uprave, tako i drugostepana, bili nepoštovanje rokova datih ZPPPA, nesprovođenje postupka na pravilan način, kao i dolazak do drugih bitnih činjenica koje su od uticaja na rešenje, može se zaključiti da je potrebno:

- Povećati efikasnost organa za poreske upravne poslove, u smislu poštovanja rokova datih članom 140 ZPPPA, što se može postići novom reformom sistematizovanih radnih mesta u Poreskoj upravi i posledično povećanjem broja zaposlenih, ili izmenom ZPPPA u delu koji se odnosi na rokove i njihovim usklađivanjem sa realnim i mogućim,
- Identifikovati nepravilnosti u donesenim rešenima i ukazati na njih u cilju izbegavanja i ponavljanja grešaka i na kraju
- Donositi rešenja sa što više dokaza koji utiču na ishod rešenja i težiti ka njihovoj maksimalnoj iscrpljenosti.

Usvajanje nekog od navedenih predloga doprinelo bi u velikoj meri poboljšanju naplate poreza po osnovu donesenih rešenja, a svakako bi smanjilo upravne sporove i rasteretilo upravne sudove.

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INFLUENCE OF ADOPTED SECOND-INSTANCE TAX ADMINISTRATIVE ACTS ON THE BUDGET OF THE REPUBLIC OF SERBIA

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Summary: The Tax Administration, as one of the most important state parts that participates in the process of collecting public revenues, among other functions it performs, has the authority to adopt tax administrative acts which determine the amount of tax liability that taxpayers are obliged to pay. Taxpayers, on the other hand, are looking for a way to tax evasion of the determined tax or to seek a way to reduce the obligation as much as possible. In this process, the activities of both parties have an impact on the budget and the amount of tax collected. The paper presents the rights and obligations of the Tax Administration in the part related to the adoption of tax administrative acts, with an emphasis on the second instance tax administrative procedure because it directly affects the amount of collected revenues. Also, explanations are given regarding taxpayers in the process of enacting tax administrative acts, with a focus on the institute of appeal in that procedure. The available data on the basis of which individual conclusions were made are also presented.

Key words: tax procedure, budget, second instance body, local self-government, complaint

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THE IMPACT OF THE ADOPTED SECOND-INSTANCE TAX ADMINISTRATIIVE ACTS ON THE BUDGET OF THE REPUBLIC OF SERBIA

Abstract: The Tax Administration, as one of the most important state bodies that participates in the process of collecting public revenues, among other functions it performs, also has the authority to adopt tax administrative acts which determine the amount of tax liability that taxpayers are obliged to pay. Taxpayers, on the other hand, are constantly looking for a way to avoid paying the determined taxes or to reduce the tax liability as much as possible. In this process, the activities of both parties have an impact on the budget and the amount of tax revenue collected. The paper discusses the Tax Administration's rights and obligations, specifically those related to the adoption of tax administrative acts, with an emphasis on the second-instance tax procedure as it directly affects the amount of collected revenues. Furthermore, the paper describes the role of taxpayers in the process of adopting tax administrative acts, focusing primarily on the institute of appeal in this procedure. The available data are also presented supporting the conclusions of this article.

Key words: tax procedure, budget, second-instance body, local self-government, appeal

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1. Introduction

The topic of this paper is the analysis of the impact that administrative acts, passed by the Tax Administration, have on public revenues. The paper consists of six sections which define the core functions of the Tax Administration and the legal norms on which it is based. In addition to this, emphasis is placed on the institute of appeals, which may have a negative impact on the revenue budget. Following an overview of competencies of the Tax Administration bodies in the third section of the paper, the fourth section discusses the time limits for these bodies in the process of determining an appeal, followed by the fifth section of the paper which discusses the negative effects that may arise in case of exceeding these time limits. The sixth section deals with the mechanisms and legal remedies that a party may use if they are dissatisfied with the second-instance administrative decision.

In addition to the voluntary settlement of tax liabilities determined by the taxpayer through self-taxation (Radičić and Raičević, 2011), the tax administration makes decisions in the process of determining the tax liability, in the process of checking compliance with tax regulations and proper assessment of tax liabilities (Milojević, 2010) by the taxpayer (Dobos and Takács-György, 2020, p.78) and in the process of forced collection of assessed, but unsettled tax liabilities. The decision of the tax authority may be quashed on appeal in the second-instance procedure or by administrative proceedings. An appeal is a regular legal remedy by which a party can challenge the legality or regularity of a decision made in the first instance tax-administrative procedure which determines the party's rights and obligations. The party dissatisfied with the decision passed in the first-instance procedure initiates the second-instance procedure by filing an appeal. The right to appeal is permitted to both parties in the procedure - the Tax Administration and the taxpayer, or other tax debtors (Lazić, 2018, p. 11). When the rights or obligations are decided by an appellate decision, the person can file an appeal like any other person with an interest in the proceedings (such as a tax guarantor or persons responsible for due secondary tax liability of another taxpayer).

2. Jurisdiction of state bodies in the second-instance tax administrative procedure

In this part of the paper, we will discuss the legal norms that give the Tax Administration the right to decide on tax administrative acts, the timing of the granted right, and the organization of the Tax Administration.

The Constitution of the Republic of Serbia ("Official Gazette of RS", No. 98/2006 - hereinafter: the Constitution) guarantees two levels of administrative proceedings. The provision of Article 198, paragraph 1 of the Constitution prescribes that "Individual acts and actions of state bodies, organizations with delegated public powers, bodies of autonomous provinces and local self-government units must be based on the Law." The Constitution, Article 198, paragraph 2, stipulates "Legality of final individual acts deciding on a right, duty or legally grounded interest shall be subject to reassessing before the court in an administrative proceedings"

In accordance with the Law on Ministries, specifically Article 3 ("Official Gazette of RS", No. 128/20), the competent authority in appeals against first-instance tax decisions, made in the process of assessing, auditing and collecting tax by the Tax Administration and local tax administration, is the Ministry of Finance – Sector for Second-Instance Tax and Customs Procedure (hereinafter: the Sector).

Up until 30 June 2017, in accordance with the Law on Tax Procedure and Tax Administration ("Official Gazette of RS", No. 80/02, 84/02, 23/03, 70/03, 55 / 04, 61/05, 85/05, 62/06, 62/06, 61/07, 20/09, 72/09, 53/10, 101/11, 2/12, 93/12, 47/13, 108/13, 68/14, 105/14, 91/15, 112/15 and 15/16), the Tax Administration was designated as the second-instance authority in tax-administrative procedure. This means that the same authority was making both first-instance and second-instance decisions. The amending Article 25 [s11] of the Law on Tax Procedure and Tax Administration published in the Official Gazette of RS 108/2016 stipulates that as of 1 July 2017, the competent authority for dealing with appeals against decisions of the Tax Administration and local tax administration in the field of own-source revenues is to be the basic organizational unit within the Ministry of Finance, i.e. the Sector

for Second-Instance Tax and Customs Procedure. Such a solution was primarily aimed at preventing the same authority from making decisions in both the first-instance and the second-instance proceedings, (Nikodijević, 2019, p. 119), particularly considering the fact that the decisions in first-instance and second-instance proceedings were often made by the same persons who work in the Tax Administration offices.

The Sector's competencies include: "Deciding on and processing of appeals filed against first-instance decisions made by the Tax Administration units and local tax authorities. The departments within the Sector prepare decisions and file answers to judicial bodies when these decisions are to be prepared and drafted for the application of extraordinary legal remedies, they also respond to lawsuits filed with the relevant court against decisions made in tax and customs administrative proceedings. The Sector decides on legal remedies against customs administrative acts of customs offices adopted in the first-instance customs administrative procedure relating to the application of regulations in the field of the customs system. The Sector prepares decisions for the execution of judgments of the court competent for resolving administrative disputes, and provides an analysis of tax-administrative court practice relating to the application of regulations that fall within the scope of the Sector." (Information booklet on the work of the Ministry of Finance, December, 2020). The sector is headed by an Assistant Minister.

In terms of organization, the Sector is divided into four internal units that perform activities related to the second-instance tax administrative cases. Further organization implies the application of the territorial principle, i.e. four departments for second-instance tax procedure in:
- Belgrade,
- Novi Sad,
- Kragujevac and
- Nis

3. Institute of Appeals in Tax Procedure

This part of the paper discusses a party's right to appeal the procedure of tax assessment. We will explain what an appeal is, when and how it is possible to file an appeal, i.e., the competence of the first-instance and second-instance authority in the procedure of deciding on the appeal.

The Law on General Administrative Procedure in Article 13, paragraph 1 ("Official Gazette of the RS", No. 18/16 and 95/18 - hereinafter: the Law on Administrative Procedure) stipulates that "Against the decision rendered in the first instance, i.e., if the body in the administrative matter has not decided within the prescribed time limit, the party has the right to appeal, unless otherwise regulated by law, and if the body in the administrative matter has not made a decision within the prescribed time limit." Article 151 and Article 159 of the Law on Administrative Procedure stipulate the conditions under which an appeal may be filed. The same right to appeal and the conditions under which the appeal is allowed are defined in Article 24, paragraph 1, item 13 and Article 140 of the Law on Tax Procedure and Tax Administration ("Official Gazette of RS", No. 80/02, 84/02, 23/03, 70/03, 55/04, 61/05, 85/05, 62/06, 62/06, 61/07, 20/09, 72/09, 53/10, 101/11, 2 / 12, 93/12, 47/13, 108/13, 68/14, 105/14, 91/15, 112/15, 15/16, 108/16, 30/18, 95/18, 86/19 and 144/20 - hereinafter: LTPTA). The party is allowed the right to appeal in case the decision is not issued within the statutory time limit. Administrative proceedings may be instituted against the final tax administrative act unless otherwise provided by law. Administrative proceedings may be initiated, as if an appeal had been denied, also in cases when the person who initiates proceedings states that his appeal has not been decided within the statutory time limit. An appeal against the first-instance decision shall be filed with a locally competent authority. The prepared second-instance decision is signed by the assistant minister in charge of the second-instance tax administrative procedure.

The first-instance tax authority may accept an appeal, if it finds that the appeal is justified and that it is not necessary to investigate the facts anew, if it finds that the conducted proceedings were incomplete, and that this could have had a bearing on decision-making, if the appel-

lant presents new facts and evidence which could be of relevance for the matter to be decided otherwise, if the appellant was not, although it was obligatory, given the opportunity to take part in the proceedings and if the appellant failed to participate in the proceedings, but has justified such failure in the appeal. If an appeal is inadmissible, belated, or filed by an unauthorized person, and the first-instance tax authority failed to dismiss it on those grounds, the second-instance authority will dismiss it in accordance with the LTPTA.
If an appeal is not dismissed, the second-instance authority takes the case into consideration, and it can:

1) deny an appeal;

2) annul the tax administrative act in whole or in part;

3) amend the tax administrative act.

4. Time limits for resolving appeals proceedings

The data presented in this part of the paper are based on the time limits that the authority in the tax-administrative procedure must adhere to, the time limits stated are in accordance with LTPTA, and the data table shows the number of filed complaints according to the decisions of territorial organizational units of the Tax Administration.

4.1. Time limits prescribed by LTPTA

According to the provisions of Article 147, paragraph 4 of the LTPTA, the second-instance authority, i.e., the Sector, in the appellate procedure is obliged to make a decision no later than 60 days from the day when the appeal was submitted. The first-instance tax authority, in the tax procedure upon appeal, may adopt the appeal and amend the tax administrative act and thus avoid the devolutive effect of an appeal. It must be noted that in this case it is still a matter of amending the first-instance tax administrative act, i.e., that the first-instance authority can resolve the appeal without having to forward it to the competent second-instance authority pursuant to Article 144, paragraph 2 of the LTPTA. In such cases, and in accordance with the provisions of Article

144, paragraph 7 of the LTPTA, the tax authority is obliged to make a decision no later than 30 days from the receipt date of the appeal.

4.2. Time limits for the second-instance appeal procedures

In practice, and contrary to the LTPTA, the second-instance authority decides the appeal outside the prescribed time limits. The time limits by which the second-instance authority decides the appeal are several times longer and it usually takes around one year and six months from the receipt date of the appeal for the decision to be made, considering the period from 1 July 2017, when the Sector was formed, as an organizational unit of the Ministry of Finance. If a shorter period of time is observed, it can be concluded that in the year the Sector was formed, i.e., in the period from 1 July 2017 to 31 December 2017, the authorities resolved appeals within one year and 11 months. Such a long period of decision-making by the second-instance authority is, of course, due to the large number of cases taken over from the second-instance authority within the Tax Administration at the time. With the transfer of the competence to act in the second-instance tax procedure, the Ministry of Finance took over 10,374 cases from the Tax Administration. In 2018, the time limit for determining the appeal was shortened to one year and five months. However, in 2019 the time limit was extended again, and now it amounts to one year and eight months. Considering the territorial organization of the Sector, below is a table with time limits in dealing with the appeals.

Table 1

Appeals taken over, received and resolved in the period by years (2017, 2018 and 2019)

Department	1 July - 31 December 2017			1 January – 31 December 2018			1 January – 31 December 2019		
	Taken over	Received	Resolved	Taken over	Received	Resolved	Taken over	Received	Resolved
Belgrade	2.360	1.939	1.132	3.167	4.559	6.424	1.302	3.578	4.331
Novi Sad	4.109	2.466	905	5.670	4.214	6.639	3.245	2.679	3.574
Kragujevac	1.751	1.378	682	2.447	2.263	2.794	1.916	1.589	1.633
Nis	1.774	1.022	515	2.281	2.127	2.757	1.651	1.691	2.261
Customs	380	1.858	1719	519	2.453	2.481	491	1.860	2.135
Σ tax departments	9.994	6.805	3.234	13.565	13.163	18.614	8.114	9.537	11.799
Σ customs + tax departments	10.374	8.663	4.953	14.084	15.616	21.095	8.605	11.397	13.934

Source: Information booklet on the work of the Ministry of Finance, December 2020

Table 1a

Appeals taken over, received and resolved in the period from 1 January – 30 June 2020

Department	***January 1 – June 30 2020***
	Resolved
Belgrade	1.927
Novi Sad	2.147
Kragujevac	920
Nis	924
Customs	579
Σ tax departments	5.918

5. Consequences of exceeding time limits in the appeal procedure

The tax liability determined by the appealed decision cannot be forcibly collected when the second-instance authority in the appeal procedure does not act in accordance with the provision of Article 147, paragraph 4 of the LTPTA, that is, if the decision is made 60 days from the delivery date of the appeal, according to Article 79, paragraph 1, point 4) of the LTPTA and Article 147, paragraph 6 of the LTPTA. Also, if the procedure of forced collection (Janjetović, 2015, p. 41) has started, it must be terminated until the taxpayer, i.e. appellant, who filed an appeal against the decision, is served with the reviewed decision, i.e., until the first-instance authority acts upon the order of the second-instance authority by which the decision was annulled on appeal. The tax authority then issues a decision to terminate the forced collection procedure, according to the provisions of Article 147, paragraph 6 of the LTPTA. The Tax Administration is obliged to terminate the forced collection procedure and, in case the appeal procedure is not completed within the prescribed time limits, the forced collection is suspended until the person who filed an appeal against the first-instance decision is served with the second-instance decision, i.e., until the first-instance authority acts as ordered by the second-instance authority and makes a new decision in a repeated procedure.

The procedure of forced collection of taxes is suspended ex officio when the tax liability that is the subject of the forced collection is annulled. Lengthy time limits for deciding cases on appeal, especially in repeated procedures, can lead to the expiry of the limitation period for tax assessment and collection. The Limitation Period within the tax procedure refers to the passage of time after which certain rights and powers or certain relations cease to exist. The subject of law cannot exercise his rights and powers indefinitely. Therefore, the legislator defines a deadline within which the rights and powers can be exercised. If the subject of law does not exercise his rights within the prescribed period, his rights and powers cease to exist as it is considered that if one does not exercise (does not use) his rights and powers and has no interest in doing so, he renounces them. Following the limitation period for tax assessment and collection (Gogić, 2020, p. 22), The Tax Administration

and the local tax authority will not be able to assess or collect taxes and secondary tax liabilities if the limitation period expires, which occurs five years from the date the limitation period starts to run, according to Article 114, paragraph 1 of the LTPTA.

6. Administrative dispute vs. the adopted second-instance tax administrative act

The decision of the second-instance authority in tax administrative cases is final, i.e., there is no regular legal remedy in the form of further proceedings concerning the administrative case that was decided on by the second-instance authority. However, a taxpayer dissatisfied with the second-instance tax administrative act (decision) may consider bringing a case to the Administrative Court. The Administrative Court is a special court established by the Law on Organisation of Courts ("Official Gazette of the RS", No. 116/2008, 104/2009, 101/2010, 31/2011 - other law, 78/2011 - other law, 101 / 2011, 101/2013, 106/2015, 40/2015 - other law, 13/2016, 108/2016, 113/2017, 65/2018 - AC decision, 87/2018 and 88/2018 - AC decision) that adjudicates in administrative disputes. In an administrative dispute, the court also decides on the legality of final individual acts, which determine a party's right, obligation or legal interest, in respect of which the law at times does not provide effective judicial protection. Considering the quality of the decisions made in tax administrative proceedings, the protection of the taxpayer as a party in the proceedings (Vladisavljević & Pešić, 2018, p. 94) further prolongs the proceedings conducted by the tax authority against taxpayers since the judgment in favor of the claimant in the administrative dispute annuls the final decision. When the case is returned for a new procedure, the second-instance authority is obliged to act as ordered by the court. In such cases, the second-instance authority will annul the first-instance decision and return the case to the authority that ordered a retrial, and the budget will be deprived of the amount of determined tax or, if not completely deprived, then at least negatively affected by the tax deferral. All this prolongs the decision-making deadlines in terms of the enforceability of the decision and leads to increased costs, concerning both the

budget and the taxpayers. Here is an illustration of the work of the second-instance authority.

Table 2

The structure of decisions in the second-instance tax administrative procedure and initiated administrative disputes in 2019

Department	**Annulled decisions**		**Rejected decisions**		**Total no. of decision**		**Sued decision**	
	Number	**%**	**Number**	**%**	**Number**	**%**	**Number**	**%**
Belgrade	1.406	41,59	1.975	58,41	3.381	100,00	547	27,70
Novi Sad	1.660	54,27	1.399	45,73	3.059	100,00	142	10,15
Kragujevac	482	31,00	1.073	69,00	1.555	100,00	205	19,11
Nis	830	43,48	1.079	56,52	1.722	100,00	508	47,08
Σ (Total)	**4.378**	**44,20**	**5.526**	**55,80**	**9.904**	**100,00**	**1.402**	**25,37**

Source: Ministry of Finance

Based on the stated data, it can be concluded that in the appeal procedure, many first-instance decisions are annulled, as a matter of fact, as much as 44.20% of first-instance decisions are annulled. In 55.80% of cases in which an appeal was filed, the second-instance authority confirmed the first-instance decision by rejecting the appeal as unfounded.

However, the actions of the second-instance authority are not uniform, so it can be noted that the departments in Belgrade and Nis act on the average level of the Sector, while the departments in Novi Sad and Kragujevac record significant deviations from the average. Ob-

serving the results of second-instance procedures by departments, it can be concluded that the fewest annulled decisions were made by the Department in Kragujevac - 31%, while the largest number of annulled decisions, according to draft decisions, was made by the Department in Novi Sad - as much as 54.27%. Regarding the number of initiated administrative disputes, the Department in Nis displays the least favorable situation, where in as many as 47.08% of cases in which an appeal against the first-instance decision was rejected for being unfounded, a claim is started before the Administrative Court, while the smallest percentage of appealed final decisions is in Novi Sad - only 10,15%. In most cases, the main reason for appealing these tax decisions is non-compliance with the time limits prescribed by Article 140 of the LTPTA, while a smaller number of appeals were filed because the procedure was not conducted properly, that is, it was incomplete, and also for providing other important facts which can affect the tax decision and the amount of tax debt. (https://www.mfin.gov.rs).

7. The costs of contesting the tax-administrative act

The provisions of Articles 85 and 87 of the Law on Administrative Procedure prescribe who bears the costs of the procedure. Article 85, paragraph 1 of the Law on Administrative Procedure stipulates that the costs of the procedure shall be borne by the authority conducting the procedure, while paragraph 2 of the same Article stipulates that this authority shall also bear the expenses of the procedure initiated ex officio and resolved in favor of the party unless otherwise provided by law.

When a decision on an administrative matter is made, it also states the costs of the procedure. When the second-instance authority decides the administrative matter itself, it specifies the costs of both the first and the second instance procedure. In an administrative dispute, the Administrative Court decides on the costs of the procedure. In proceedings in which a party hires a lawyer to protect his rights and the appeal procedure is subsequently successful, i.e., the lawsuit against the final decision made in the second-instance tax administrative procedure ends in favour of the party, the costs of the procedure shall be borne by

the authority whose decision was annulled as defined by Article 24 of LTPTA.

The party who submits an appeal against the passed tax administrative act is obliged to, by Tariff No. 6 or 7 of the Law on Republic Administrative Fees ("Official Gazette of RS", No. 43/2003, 51/2003 - amended 61/2005, 101/2005 - other law, 5/2009, 54/2009, 50/2011, 70/2011 - adjusted amount, 55/2012 - adjusted amount, 93/2012, 47 / 2013 - adjusted amount, 65/2013 - other law, 57/2014 - adjusted amount, 45/2015 - adjusted amount, 83/2015, 112/2015, 50/2016 - adjusted amount, 61/2017 - adjusted amount, 113/2017, 3/2018 - amended, 50/2018 - adjusted amount, 95/2018, 38/2019 - adjusted amount, 86 / 2019, 90/2019 - amended, 98/2020 - adjusted amount and 144/2020 - hereinafter the Law on Republic Administrative Fees), pay the fee in order for the procedure to be initiated. The current fee for filing an appeal against the decision of the Tax Administration made in the administrative procedure is 1,970.00 RSD, in accordance with Tariff No. 7, paragraph 5 of the Law on Republic Administrative Fees.

If the court decides that the taxpayer's rights have been violated, compensation for damages and court costs shall be borne by the budget of the Republic, or the local self-government units, as prescribed in Article 24, paragraph 3 of the LTPTA.

During tax proceedings, the Tax Administration does not pay any taxes, fees or other expenses for actions and services provided to it by state bodies, governmental bodies responsible for record keeping, banks and other bodies and organizations, as stated in Article 166 of the LTPTA.

Here, we should also mention the fees and expenses determined by the lawyer's tariff system which represent lawyers' compensation for their legal services, i.e., submitting motions, filing appeals, initiating lawsuits and participating in hearings related to a specific tax procedure or administrative procedure.

Table 3
Lawyer's fees in tax administrative proceedings and administrative disputes

Submission	Hearing	**Appeal**
30,000.00 RSD	31,500.00 RSD	60,000.00 RSD

8. **Conclusion**

The success of the Tax Administration and the Revenue Administration of local self-government units is measured by the amount of tax revenue collected (Pantić, Jovanović and Issa, 2019, p. 43) since it is only the continuous collection of tax revenue that ensures unhindered financing of public services and projects provided by state and local governments (Đorđević and Krstić, 2020, p.12). Therefore, it is the efficient, continuous, and effective collection of taxes from all taxpayers that is the most important task of the tax administration (Popović, 2014).

Considering the fact that in 2019, as many as 1,402 second-instance decisions in tax-administrative cases were appealed, it was not surprising to see a direct increase in state budget expenditures. Given that the paper has already stated that the main reasons for disputing both the first and the second instance decisions of the Tax Administration bodies were non-compliance with the time limits prescribed by the LTPTA, failure to conduct the procedure properly, as well as providing other important facts that may affect the decision, we can conclude that it is necessary to:

- Increase the efficiency of tax administration bodies, especially in terms of respecting time limits prescribed by Article 140 of the LTPTA, which can be achieved either by increasing the number of employees in the Tax Administration by means of employment reform programme or by amending the provisions of the LTPTA which deal with time limits and modifying these limitations to meet the conditions,

- Identify irregularities in decisions made and point them out in order to avoid repeating the same mistakes,
- Make decisions with as much evidence as possible that support the decision made.

Adoption of some of the above proposals would greatly contribute to the improvement of tax collection, and would certainly reduce the number of administrative disputes and relieve Administrative Courts.

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