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THE ASSESSMENT OF THE BANK ACCOUNT BLOCKADE BY THE USE OF STIR IN THE LIGHT OF SAC'S RULINGS

ABSTRACT

The purpose of the article. The purpose of the paper is the assessment of using STIR to blockade the bank account by the tax administration. The research hypothesis is as follows: The bank account blockade by the use of STIR is abused by the tax administration.

Methodology. The descriptive study including a critical attitude to the legal acts and literature as well as the case studies of NSA rulings were used as the scientific methods.

Results of the research. An important problem of taxpayer's security is tax frauds in VAT. One instrument to combat tax fraud is the blockade of bank account by the use of STIR. However, the tax authorities very seldom use that method. The analysis of SAC's rulings shows that the tax authorities do not abuse this instrument. The blockade of bank account by the use of STIR decreases the tax frauds.

Keywords: tax ordinance, STIR, blockade of bank account, combating tax frauds

JEL Class: H26, K34, H83



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Introduction

Tax frauds are getting an increasingly important issue. Especially the tax frauds in VAT are discussed as a public finance problem. VAT is one of the most important sources of revenue for the state budget. VAT carousels are one type of tax fraud. In order to protect the State Treasury interests and to ensure fair competition in the economy, there must be available measures to combat tax frauds. One of such measures is a bank account blocking under the STIR system. However, applying this measure to a bona fide business owner may jeopardize the business's operations. Blocking a company's funds may result in a loss of liquidity, which in turn may lead to its bankruptcy. Therefore, the tax authorities should only block bank accounts under the STIR system in exceptional cases.

The purpose of the paper is the assessment of using STIR to blockade the bank account by the tax administration. The research hypothesis is as follows: The blockade of the bank account by the use of STIR is abused by the tax administration. The descriptive study including a critical attitude to the legal acts and literature was used as well as the case studies of SAC's rulings.

1. The blockade of bank account as a measure to combat the carousel fraud

Generally, a carousel fraud involves international transactions (particularly intra-Community transactions) within the supply chain (Selera, 2014). It involves inflating the value of goods in transactions between companies. Entities participating in the scheme receive a refund of VAT that was not paid at an earlier stage of the transaction by the entities formally obligated to do so. Entities from several, or even a dozen or so countries, may be involved in such schemes. Some companies may participate in the chain of transactions without realizing it (Wójcik, 2011; Selera, 2014). Fraudsters exploit VAT harmonization to commit tax evasion. This is because, in the case of intra-Community supplies, the sale is subject to a 0% VAT rate. The tax is not paid until it reaches the country of destination (domestic sale) (Kołodziejcki, 2015). A carousel fraud scheme involves the sale of goods using intra-Community supply and intra-Community acquisition mechanisms, with the supply chain being closed in such a way that the goods are ultimately sold to a buyer in the Member State from which they were originally acquired (usually to the entity that was at the beginning of the chain). This allows the transaction scheme to be repeated. A characteristic feature of these transactions is therefore a closed cycle of goods, meaning that they circulate — either in reality or only on paper — within the supply chain among successive participants in the trade.

Carousel schemes can involve both real and fictitious transactions.

In the case of real transactions, the scheme may look like this (Namysłowski, Ed., 2014):

- the first company in the chain purchases goods from another Member State; due to the method of settlement of the transaction (reverse charge), this company holds the goods in the country where the transport ends and treats the transaction as an intra-Community acquisition of goods not subject to VAT;
- the company then makes a domestic supply of goods; as a result, it receives the gross price from the purchaser, a portion of which — namely, the amount corresponding to the VAT — it is required to pay to the tax office; however, it does not make such a payment;
- the purchaser of such goods receives an invoice from the first company, which generally entitles them to deduct the VAT as input tax, and they make such a deduction either directly (through a tax refund) or indirectly (by reducing the tax due);
- the goods may be the subject of subsequent domestic supplies (e.g., to make it more difficult to detect the illegal activity), eventually ending up with an entity that sells them to another Member State; that entity recovers the excess input tax (in effect, the entire input tax due to the possibility of applying a 0% VAT rate to the supply resulting in the goods being sold outside the country, i.e., an intra-Community supply of goods);
- to create a carousel effect, the goods are returned to the country, and the purchaser—the first company in the supply chain — treats the purchase as an intra-Community acquisition of goods.

The term “carousel” refers precisely to the fact that, as a result of multiple transactions, the goods return to the original supplier (Selera, 2014).

The mechanism used in carousel fraud schemes may be based entirely on fictitious transactions that exist only on paper. One of the entities involved in the transaction claims an undue VAT refund. It records in its records, invoices documenting purchases of fictitious goods received from entities created specifically for this purpose. In contrast, the actual goods do not appear at any stage of the transaction (Duży, 2013). In these transactions, the parties to the actual transaction are falsified, the actual place of delivery or purchase is concealed, and the price, type of product range, or units of goods are manipulated (Derkacz, 2016).

The literature identifies the following types of entities involved in a carousel fraud:

- original seller;
- missing trader;
- buffer;
- the broker.

The original seller is the business entity that initiates the carousel scheme by purchasing goods under the intra-Community acquisition of goods and then supplying them. A missing trader generally fails to fulfill their obligation to report transactions, file accurate tax returns, and pay their tax liability, and then disappears, becoming untraceable to the tax authorities. Typically, such a taxpayer has no assets and has not done any actual business activity. A buffer is one of the links in the transaction chain — an entity that purchases goods in a domestic transaction for the purpose of reselling them, at a markup, also in a domestic transaction. The role of the buffer is to complicate the transaction and make it more difficult for tax authorities to identify tax fraud. Additionally, subsequent stages of the transaction are often designed to gradually generate input tax that will be claimed as a deduction and actually received from the tax office by the broker. The broker's role is to purchase goods within the country (as part of a VAT-taxable transaction) and then deliver them, resulting in the export of the goods to another Member State (Intra-Community Supply of Goods) (Kotowski, 2021).

Taxpayers who were unaware that they were participating in a criminal scheme were drawn into the scheme to defraud the VAT system in order to make it more difficult to detect. As a result, tax proceedings were conducted focusing on the issue of taxpayers' failure to exercise due diligence when purchasing goods and services in domestic transactions (Senderowski, 2025).

Different measures combating tax frauds have been implemented in the Polish tax system for the last decade.

An important measure to combat the tax evasion was the reform of tax administration and tax procedures in March 2017. The National Revenue Administration was created and it is responsible for governmental tax administration including tax offices and custom – fiscal offices (as the merger of fiscal control offices and customs offices). Both the tax offices and custom-fiscal offices may control the taxpayers. National Revenue Administration is also responsible for organising the information system for the control purposes and ensuring cooperation with the information systems of all subordinated offices. Additionally, the National Revenue Administration draws up the control plans (Zdunek, 2018). The reform of tax administration was involved in changes in tax proceedings. The custom-fiscal offices may use so called duty-fiscal control (a type of tax control procedure) to investigate the taxpayers who commit the tax fraud. In the framework of the duty-fiscal control the competences of tax administration were broadened, for example, they are able not only to investigate the documents but also to search persons, rooms and detain persons (Różycki, 2018).

Another important change in the tax system was the implementation of Standard Audit File for Tax. The taxpayers have to keep tax books electronically and send accounting data in a given standard format to the tax administration. The obligation of sending SAF Tax was adopted step

by step. First, the largest firms were obliged to send Standard Audit File for Tax from July 2016 and small taxpayers from the beginning of 2018 (Dzwonkowski, 2019). Poland has also decided to monitor the flow of goods and third-party data through the Electronic Transport Monitoring System (SENT) (Senderowski, 2025).

The provisions on registration of VAT taxpayers were changed to make it more difficult to act as the missing trader. The tax administration is able to reject the application for registration as a VAT taxpayer under some specific conditions (for example, if the data provided in the application for registration is inaccurate). The time of submitting the tax record was shortened. The taxpayers are obliged to submit their tax returns to the revenue office monthly as they could submit the tax returns quarterly. The tax liability of acquirer in special cases was widened in 2017. The split payment mechanism was implemented in July 2018 as one of the instruments aimed to decrease the carousel fraud (Michalik, 2019).

There were also changes in the Penal Code. New provisions including invoice-related offences, entered into force aiming at combating the falsification of invoices. The punishment for commitment of VAT frauds increased as well (Duży, 2020; Ocieczek, 2022).

Implementing the bank account blocking by the use of STIR in 2018 to the Polish tax system is another example of an instrument aiming at diminishing the tax fraud. The tax authority is able to block a banking account of taxpayers suspected of taking part in the tax fraud (Dzwonkowski, 2019).

Head of the National Revenue Administration is responsible for blocking a banking account. It may be performed under the authority of the Head of the National Tax Administration by the indicated heads of a customs and tax office (Regulation of Ministry of Finance February 2, 2022; Mariański, Ed., 2023).

The regulations use the term “qualified entity” to refer to an entity whose account may be blocked. The provisions specify who is considered a qualified entity, such as natural persons conducting business activities (Gurba, 2024).

The term STIR itself refers to the clearing house ICT system. This system is used to analyze cash flows in bank accounts. It is maintained and operated by the National Clearing House – as an interbank clearing house in Poland (Mikula, 2018, pp. 27–32).

Banks and credit unions, as well as the National Clearing House, are required to promptly and continuously provide the Head of the National Revenue Administration with specific information (including details on payment orders and settlement accounts). In order to verify or supplement information regarding the possible use of a business account for purposes related to tax fraud, these institutions are also required to provide specific information upon request by the Head of the National Revenue Administration. Data is transmitted via the STIR system operated

by a clearing house that acts as an intermediary in the transmission of data and requests from the Head of the National Revenue Administration (Kieszkowski, 2018). Based on cash flow data provided by banks and the National Clearing House, as well as the additional criteria mentioned earlier, STIR automatically assigns an appropriate risk indicator to trading participants (Chądzyński, 2019). It is noted that STIR analyzes financial flow data in real time to identify suspicious transactions (Szwed, 2025). Moreover, STIR is used not only to transmit the risk indicator but also to transmit other data, such as the IP address, location, and date of login to the suspicious account (Szulc, 2019a).

Next, based on data provided by STIR, the Head of the National Revenue Administration conducts a risk analysis of the use of banking activities for purposes related to tax fraud. (Kieszkowski, 2018). The risk analysis is conducted taking into account economic, geographic, subject-matter, behavioral, and connection criteria (Pogroszewska, 2018). If the results of a risk analysis indicate that a taxpayer may be using the services of banks or credit unions for purposes related to tax fraud, or for activities aimed at committing tax fraud, the Head of the National Revenue Administration may order the blockade of the account of the qualified entity for a period not exceeding 72 hours – so called short blockade (Kieszkowski, 2018).

The head of the National Revenue Administration submits a request to block the account of a qualified entity to the bank. The request must specify the account number of the qualified entity and the duration of the account block. Upon receipt of the request, the bank immediately blocks the account of the qualified entity (Szcześniak, 2025). However, in 2018, the possibility of appealing the blocking of a qualified entity's account for a period of up to 72 hours and of appealing the scope of such blocking was abolished (Jabłoński, 2018).

The purpose of blocking bank accounts is to prevent entities suspected of tax fraud from transferring funds held in those accounts to another financial institution anywhere in the world (Babiarz, 2019). The regulations provide for the possibility of extending the period during which a qualified entity's account is blocked, specifying the procedure and conditions for doing so. The extension of the account block period is carried out by means of an order issued by the Head of the National Revenue Administration (Teszner, 2025).

An order to extend a block may be contested, and the order issued as a result of such an appeal may be challenged before the administrative court. At the same time, it is noted that the regulations do not explicitly provide for the right to challenge the substantive and technical act of establishing a block. There is also no provision that would allow for challenging this action through another appeal. As part of the appeal proceedings concerning the review of the legality of the order to extend the block, the legal and factual grounds for establishing the block must also be examined (Nykiel & Wilk, 2020).

The STIR system is used not only to block bank accounts, but also for: conducting risk analyses prior to initiating audits, preventing improper VAT refunds, and identifying and disrupting chains of companies engaged in fictitious transactions with one another (Sarnowski & Selera 2020, p. 40).

The introduction of bank account blocking into the tax system has caused controversy. The tax authorities have stated that account blocking is to be used as an extraordinary measure and will not be abused (Rudowski 2018, p. A16). According to Szulc (2019b), the initial actions taken by tax authorities regarding bank account blocks indicate that business owners need not fear abuse of authority in this regard. The procedures for imposing blocks are clear, and the risk of abuse by tax authorities is low (Chądzyński, 2019). Research to date indicates no instances of abuse regarding bank account blocking by tax authorities (Witczak, 2022).

Tax advisors and experts have expressed concern that the blocking of bank accounts could be abused. There is a risk that it could be applied to taxpayers who are not knowingly involved in VAT fraud. The blocking of a bank account can undermine a company's liquidity. The introduction of the ability to block accounts under STIR has been compared to equipping tax authorities with nuclear weapons (Tarka, 2018, p. A 16; Mroziuk & Zalewski, 2019; Tarka, 2020). According to Kwietko-Bębnowski (2021, p. 22), an analysis of the Voivodship Administrative Court's rulings leads to the conclusion that the account block was caused by: tax officials' complete lack of knowledge regarding business models operating in the economy; a flawed interpretation of the regulations on account blocking; the raising of exaggerated allegations; the absence of any analysis of the factual circumstances supported by evidence, and the presence of minor discrepancies between the gross value of VAT invoices reported in JPK_VAT files and cash flows. In opinion of Matarewicz (2021) regulations on blocking bank accounts based on an algorithm unknown to anyone – except the tax officials involved – violate the constitutional principle of proportionality. It is also pointed out that this measure is not very effective, as the number of blocked bank accounts is disproportionately small compared to the total number of bank accounts classified as high-risk (Szymanek, 2023). In the literature it is suggested that a justification should be provided for requests to use a short blockade of banking account (Ochnio 2021, p. art. 119zv).

The tax administration uses the blockade of the bank account by the following: (see table 1).

Table 1.*The blockade of the bank account by the use of STIR by the tax administration (years 2022–2025)*

	2022	2023	2024	2025
Number of blocked bank accounts for 72 hours	267	315	258	295
Number of blocked bank accounts prolonged for 3 months	266	308	257	295

Source: Ministry of Finance (2026).

The data in Table 1 shows that a number of blocked bank accounts is not very high. This suggests that the blockade of bank accounts is used seldom after the analysis of the case. To assess the use of blockade of bank accounts, the number of litigation with tax authorities should be analysed. The number of grievances and litigations with tax authorities is presented in the Table 2.

Table 2.*The number of grievances and litigations with tax authorities concerning the blockade of the bank account (years 2022–2025)*

	2022	2023	2024	2025
Number of blocked bank accounts	267	315	258	295
Number of grievances	90	96	65	113
Number of orders setting aside the orders of the authority of the first instance in the whole and adjudicating on the merits of the case	5	6	0	3
Number of complaints to the Voivodship Administrative Court	53	41	29	54
Number of VAC's rulings setting aside the orders	8	13	2	4
Number of cassation appeals with SAC's filed by qualified entity	13	2	9	10
Number of SAC's rulings setting aside the orders	0	1	1	0

Source: Ministry of Finance (2026).

The data in Table 2 shows that a number SAC's rulings setting aside the orders is very low. It can be noted that the orders of the tax authorities do not abuse the law concerning the blockade of bank accounts.

2. Assessment of the tax authorities' use of bank account blocks

The assessment of the tax administration's use of account blockade was conducted through an analysis of case studies — the Supreme Administrative Court (SAC) rulings. Taxpayers who disagree with the tax authorities' order regarding the blockade of bank accounts under the STIR system may file a complaint with the Voivodship Administrative Court (VAC). Due to the two-tier nature of court proceedings in Poland, the parties (both taxpayers and tax authorities) may file a cassation appeal with the Supreme Administrative Court. The analysis of Supreme Administrative Court rulings concerning bank account blockade is intended to serve the purpose of this article and to verify the adopted hypothesis. As of December 15, 2024, the Lex database contained Seven Supreme Administrative Court (SAC) judgments related to account blocking issued between 2022 and 2024. This timeframe stems from the fact that earlier years were covered by a separate study. All seven NSA judgments were analyzed.

All rulings assessed the validity of the orders to impose a blockade of bank account, although in some cases the court also examined other issues. Among these other issues were procedural matters concerning the delivery of the order without involving the attorney-in-fact. Among other things, the courts' authority to review the so-called short blockade (for 72-hours) was evaluated. However, in all seven rulings, the Supreme Administrative Court addressed the issue of applying a blockade under STIR. The Supreme Administrative Court upheld the actions of the tax administration authorities in all cases. To assess the use of STIR for account blockade, selected individual cases will be presented in detail, taking into account the Supreme Administrative Court's opinion.

In Judgment of June 30, 2023, case no. I FSK 190/23, the Supreme Administrative Court upheld the tax authority's imposition of a blockade. According to the Court, the extension of the blockade was justified by a real concern regarding the non-fulfillment of a tax obligation estimated at PLN 3,974,715 and the use of banks for purposes related to tax fraud. The company's real estate is secured by a mortgage of significant value (PLN 4,831,500), and its fixed assets are of little value; therefore, neither the company's financial standing nor its economic performance guarantees the fulfillment of the estimated liability. The court agreed with the tax authorities' findings, which indicated that the company was involved in supply chains that did not reflect actual economic transactions. According to the tax authorities, the funds credited to the taxpayer's accounts may have originated from transactions constituting tax fraud. In the court's

view, when describing a carousel fraud, one cannot disregard the actions of the taxpayer's business partners; therefore — as it is obvious — these actions have a direct impact on the taxpayer's factual and legal situation, as well as on the accuracy of the invoices the taxpayer uses. Regarding the nature of tax fraud, the findings made by the tax authority may directly concern the business partners of the qualified entity who are involved in earlier stages of the business transaction and in respect of whom there is a reasonable suspicion that they are participating in tax carousels. According to the court, in cases involving the blockade of a bank account, the results of the risk analysis and the associated reasonable concern that the taxable entity will fail to fulfill an existing or future tax obligation are therefore of key importance. Thus, according to the court, the imposition of a so-called short blockade was justified by circumstances indicating that the funds entering the company's accounts may have originated from transactions constituting tax fraud. Moreover, the company had recorded invoices that most likely did not document the actual course of economic events, as they were issued by entities that do not conduct actual business activities (no registered address and no active tax liability, bank account blockade imposed under STIR, and removal from the VAT register of active taxpayers due to a lack of contact).

Another ruling analyzed was the decision dated December 2, 2022, case no. I FSK 1496/22. In imposing a so-called "short blockade" the Head of the National Revenue Administration took into account that the taxpayer's suppliers indicated to commit a potential tax fraud. This assessment was reflected in the finding that these entities settled transactions without using bank accounts, and, if a payment had already been made to an account, they withdrew significant amounts of cash. They also purchased goods from entities removed from the VAT taxpayer registry. The business partners of taxpayer's suppliers were also removed from the VAT taxpayer registry due to failure to file returns or a lack of contact with them, inconsistencies in registration filings, and false information in those filings. Moreover, the taxpayer's suppliers reported inconsistent volumes of purchases and sales in their VAT returns and VAT SAF-T, and many of them failed to settle their tax liabilities, reporting transactions between themselves. The findings in this regard were not challenged in the cassation appeal; rather, the taxpayer merely invoked their good faith in dealings with the business partners and lack of awareness of any irregularities.

Deciding to extend the blockade, the tax authority took into account the fact that, during the period from August 1, 2020, to January 17, 2022, the company made no payments via bank accounts to three of the seven business partners whose operations were analyzed, and made only partial payments to the other three entities (the amount of outstanding receivables totaled PLN 6,866,167.50). Significant cash withdrawals (totaling approximately PLN 2.6 million) were made from the taxpayer's bank accounts. No debits related to salary payments were recorded in the company's bank accounts, even though the PIT-4R tax return indicated that the company

employed one employee. These circumstances, which are atypical for standard business operations, provided grounds for a reasonable suspicion that the supply chain in which the company participated did not reflect genuine business transactions but was used for tax fraud. The justification for the decision also referred to findings regarding the company's financial situation. These findings indicated that the company does not have sufficient assets to cover the estimated tax liability of over PLN 2.4 million. The company does not own any real estate and does not hold any valuable rights related to real estate. The company owns a passenger car valued at approximately PLN 150,000. According to the CIT-8 tax return for 2020, the company reported income of PLN 99,601.27. As of the date the blockade was extended, approximately PLN 375,000 had been frozen in the company's account. In the 2020 balance sheet, the taxpayer reported fixed assets valued at PLN 97,906.50, current assets valued at PLN 524,986.06, and liabilities and provisions for liabilities totaling PLN 287,287.76. The taxpayer did not challenge the specific findings, but only disputed their assessment. In the court's view, the mere fact of having funds in a bank account is not a valid argument against the blockade of those funds. The taxpayer did not dispute the finding that, shortly after the account was credited, the funds held in the bank account were frequently withdrawn in cash. The court held that the evidentiary requirements for proceedings concerning the blocking of a bank account differ from those applicable to tax proceedings aimed at determining the amount of a tax liability. In cases of this nature, the authorities' assertions are not conclusive or decisive from the perspective of the tax matter, since the authority, when deciding to impose a blockade, does not conduct an evidentiary proceeding to the extent required to issue a tax decision. The circumstances cited in such a situation are intended solely to substantiate the possibility that the activities of, among others, banks could be used for purposes related to tax fraud or for acts aimed at committing tax fraud. The tax authority's role is therefore merely to establish the likelihood of specific events that are relevant to the grounds for a bank account blockade, rather than to prove them.

In the next analysed case, the tax authorities determined that:

- between January 2020 and March 2021, the taxpayer deducted the input tax shown on invoices issued by S. p.l.c.;
- during this period, the company taxpayer transferred funds in the amount of PLN 7,966,250.60 to S. p.l.c.;
- in turn, the main supplier of S. p.l.c. during this period was P. p.l.c.;
- P. sp. p.l.c., having received funds from S. p.l.c., did not pay its suppliers (i.e., S.1 p.l.c. and G. p.l.c.);

- S.1 p.l.c. did not file tax returns for the period from January to December 2020 and was removed from the VAT taxpayer registry as of February 10, 2021;
- G. p.l.c. reported purchases from unreliable entities (those that did not file tax returns or did not report purchases in them);
- funds from P. p.l.c.'s accounts were withdrawn in cash at ATMs or bank branches.

In addition, during the appeal proceedings, the Head of the National Revenue Administration determined that W. S. (the taxpayer's CEO) held a payment card linked to an account maintained by S.A. for P. p.l.c. during the period from January 1, 2020, to April 2, 2021.

In the opinion of the Supreme Administrative Court, the totality of circumstances regarding the company's financial and asset situation justifies the concern that the taxpayer will fail to fulfill a tax obligation that may have arisen due to the unjustified deduction of input tax shown on the invoices issued by S. p.l.c. These circumstances include the fact that the company does not possess fixed assets (real estate or fixed assets other than a single passenger car) and that the taxpayer has not reported a significant (accounting) profit or a (taxable) income — in its CIT-8 tax return for 2018, the company reported a loss; for 2019, it reported a small amount of income (PLN 4,949.61); for 2020, it reported a loss of PLN 19,655; from January 2021 to March 2021, it did not make any advance payments for corporate income tax.

According to the Supreme Administrative Court, in proceedings concerning the blocking of a bank account, it is not necessary to prove that the entity participated in tax fraud — suspicion is sufficient; and in proceedings concerning the extension of the blocking of a qualified entity's account, it is not necessary to prove that the entity has failed to fulfill its obligations — a reasonable suspicion is sufficient.

The next case concerns a judgment of the Supreme Administrative Court dated May 17, 2022, Case No. I FSK 371/22. In the case under review, the tax authority specifically noted that, based on the information gathered (obtained, among other things, through an analysis of the cash flows in the bank accounts, comparisons between the cash flows in those accounts and the transactions reported in the SAF-T_VAT files submitted by the taxpayer and their business partners, data obtained from the Central Register of Vehicles and Drivers and the Central Land and Mortgage Register), the taxpayer — a qualified entity — may be involved in the use of the financial sector for tax fraud. As noted, the taxpayer's business partners — namely, companies K. and S. — had their bank accounts blocked and customs and tax audits were initiated. Company A. makes purchases directly from company S. and from company K.

Consequently, in the opinion of tax authority, the data collected indicated that the taxpayer may be involved in the use of the financial sector for tax fraud by including in the submitted

SAF-T _VAT files invoices for which there is a reasonable suspicion that they do not reflect actual economic events. The VAT shortfall estimated by the tax authority for the period from April 2020 to March 2021 totaled PLN 334,753.50. The tax authority analyzed the SAF-T files submitted by the taxpayer, and this analysis showed that the taxpayer made the majority of its purchases (72.51%) from high- and elevated-risk counterparties, namely K. p.l.c., S. p.l.c., and A. p.l.c. Furthermore, an analysis of the taxpayer's bank account in connection with the data shown in the SAF-T _VAT files submitted by the Party and the entities in question revealed discrepancies between the declared and reported amounts. Furthermore, the authority verified the registered addresses, business operation addresses, and addresses where accounting records were stored for the taxpayer's direct suppliers. At the addresses indicated for the registered office and business operations of K. and S., the address of the registered office and the address for storing accounting records were identical, and a single-family home was reportedly located at the address indicated for the registered office and business operations of K. However, at the address where the accounting records were supposed to be stored, there was an abandoned building. Meanwhile, the registered office address of the third contractor (Company A.) was supposed to be located in a "virtual office," and no one was found at the business address. Company A, on the other hand, made purchases directly from Company S. (52.74% of all purchases, totaling PLN 1,345,402.15, VAT: PLN 309,442.51) as well as from Company K. (5.72% of all purchases, totaling PLN 146,000, VAT: PLN 33,580). In fact, the only assets from which the taxpayer's tax liabilities could have been paid were the funds in their bank accounts. As established — and as was not effectively challenged in the cassation appeal — the taxpayer did not own any real estate or fixed assets; they owned only a car from 2008.

Since, the taxpayer had deducted input tax based on invoices that the tax authority suspected of being fraudulent, and involving the taxpayer's financial situation, there was a reasonable concern that the taxpayer would fail to fulfill the obligation specified in the contested decision.

Most importantly, the taxpayer failed to explain the discrepancies noted in the contested decision regarding their settlements with Company S., in relation to which an underpayment of PLN 357,930 was identified (which results from a comparison of the total amount of the taxpayer's money transfers made during the analyzed period to that entity with the value of purchases from that entity declared by the taxpayer in its JPK-VAT files submitted for that period — as noted in the response to the cassation complaint). In addition, the taxpayer failed to note that the tax authority had recorded in the contested decision that it had received the amount of PLN 86,100 from K. p.l.c. on March 19, 2021, and, importantly, did not deny that this amount constituted a refund for an erroneous payment made by the taxpayer. In the court's view, it was difficult

to agree with the taxpayer that they had clarified, during the proceedings, all the doubts raised by the authorities regarding discrepancies in financial settlements with business partners.

The next analyzed ruling was the decision dated February 16, 2022, case no. I FSK 2514/21.

The tax authority extended the blocking of the bank account. The taxpayer filed a complaint with the Voivodship Administrative Court, which overturned the decision to extend the blocking of the bank account. The tax authority filed a cassation appeal against the Voivodship Administrative Court's ruling. The cassation appeal was granted, and as a result, the Voivodship Administrative Court's judgment was overturned. Therefore, firstly the ruling of the Voivodship Administrative Court is presented and then the Supreme Administrative Court one.

For nearly a year, the taxpayer failed to report the tax due, despite significant revenues from the supply of goods, as evidenced by bank statements and confirmed by their business partners' SAF-T_VAT files. However — as the court of first instance further noted — the decision to extend the blocking period failed to take into account a material change in the factual circumstances that occurred between the issuance of the decision of July 19, 2021, and the issuance of the contested decision on August 4, 2021. On July 20, 2021, the company filed VAT-7 returns along with explanations of the reasons for the correction and SAF-T_VAT files for the period under review, disclosing both input and output tax.

The court noted that, in issuing the order, the Head of the National Revenue Administration merely stated that, during the blocking procedure, they were not the authority competent to assess the content of the submitted tax return amendments, as these would be subject to verification during the customs and tax audit. At the same time, citing preliminary information obtained from the Customs and Tax Office in K., which is conducting the tax audit, they noted that the submitted corrections still do not reflect a correct settlement of the value-added tax for the periods under review. The complainant company, in fact, included VAT invoices documenting intra-Community acquisitions of goods in the input tax records twice, which led to an overstatement of the input tax. In the opinion of the court of first instance, the Head of the National Revenue Administration, in considering the complaint, failed to address the substance of the arguments and evidence presented therein and relied solely on the evidence gathered at the time the decision of July 19, 2021, was issued. Such consideration of the complaint violated, in the opinion of the court of first instance, the principle of two-instance proceedings.

The court of first instance then found that, in the case at hand, the key point was that if the tax due as declared by the taxpayer in its amended returns and SAF-T_VAT files actually corresponded to the tax calculated as a result of the risk analysis, then the grounds for imposing the block, as indicated in the decisions of the tax authorities of both instances, were, in principle, no

longer applicable. They noted that in a situation where the appellant company, upon noticing irregularities in the submitted returns and SAF-T_VAT files, immediately corrected those documents and filed a voluntary correction, it was difficult to accept that maintaining the blockade of the bank accounts was still necessary and that it prevented tax fraud.

According to the Supreme Administrative Court, one cannot agree with the assessment made by the court of first instance that, in the case, there was a violation of the two-instance principle set forth in Article 127 of the Tax Ordinance, as stated in the reasoning of the contested judgment.

Taking into account the specific nature of proceedings concerning the blocking of an account and the its extension, and in light of the time and subject-matter limitations — namely, the limited range of evidence that may be used during the blocking procedure — the Head of the National Revenue Administration does not conduct a strict evidentiary proceeding.

In these proceedings, it is not necessary to prove that the company participated in tax fraud, that it knowingly failed to file tax returns, or that it will not fulfill its tax obligations. It is sufficient, in fact, to have a reasonable concern that potential tax obligations will not be fulfilled. This constitutes a specific exception where, due to the nature of the referring provision, the regulations contained in Section IV of the Tax Ordinance will not apply as fully as the taxpayer expects and as the court of first instance held.

According to the Supreme Administrative Court, the role of the Head of the National Revenue Administration is therefore merely to establish the likelihood of certain events (actions, circumstances) in the context of the grounds for blocking a bank account, rather than to prove them. For this reason, in proceedings concerning the blocking of a bank account, the correctness of the tax authorities' findings is not assessed as final and binding for the determination of the tax liability (these tasks are carried out in the course of assessment and administrative court proceedings concerning the tax decision), but only whether the circumstances provided by the tax authority justify the application of such a blocking, and thus whether the authority has established a *prima facie* case for the bank account blocking.

In the opinion of the Supreme Administrative Court, in light of the findings to date, there was a reasonable suspicion that the taxpayer continued to use the financial sector for tax fraud even after July 20, 2021, as the facts of the case had not changed as a result of the filing of amended tax returns. The taxpayer's explanation that its failure to report both output and input tax in both the VAT-7 returns and the SAF-T_VAT files filed for the periods from August 2020 – May 2021, and its failure to report the value of supplies and acquisitions was “the result of an error consisting in failing to select the option to load data from the accounting software's buffer and from the VAT registers” were unconvincing insofar as the company had been making this error for over a year. During this period, the taxpayer “failed to notice” that, while making sales

to nearly 1,500 entities for a total net amount of PLN 10,898,360.37, it had not accounted for PLN 2,505,152.67 in VAT. The Supreme Administrative Court accepted the conclusion indicated in the statement of reasons of order given by the tax authorities that the reason for filing the corrections was not the taxpayer's stated intention to correct an accounting error, but rather the initiation of an audit of the company by tax authorities. As the Supreme Administrative Court stated it was highly unlikely that, for nearly a year, the taxpayer "failed to notice" that it was not reporting output tax in its tax returns. Furthermore, and importantly, as the Head of the National Revenue Administration also noted, despite the taxpayer having filed amended returns, there remains a high likelihood of incorrect settlement of value-added tax.

According to the Supreme Administrative Court these findings therefore established that there was a justified risk of non-performance of an existing or potential future tax obligation in this case. Indeed, the mere suspicion of failure to account for and remit the due value-added tax provides grounds for concluding that there is a reasonable concern regarding non-performance of the tax liability. Furthermore, it was also demonstrated that there is a disparity between the value of the complainant company's assets and the approximate amount of the tax liability.

Another ruling analyzed was the decision dated January 26, 2022 case no. I FSK 2393/21.

The tax authority extended the block on the bank account. The taxpayer filed a complaint with the Voivodship Administrative Court, which overturned the decision to extend the block on the bank account. The tax authority filed a cassation appeal against the Voivodship Administrative Court's ruling. The cassation appeal was granted, and as a result, the Voivodship Administrative Court's judgment was overturned.

The tax authority analyzed the cash flows in the taxpayer's bank accounts for the period from January 2020 to October 2020. No payments from major business partners were recorded in this bank account. In addition, with regard to this account, the tax authority noted numerous cash withdrawals from ATMs (nearly 50% of all transactions) totaling 463,500.00 PLN. The risk analysis also indicated that the manner in which this account was used — namely, the absence of payments from contractors and the making of cash withdrawals — remained unchanged during the subsequent period, from November 1, 2020, to December 15, 2020. An analysis of the SAF-T_VAT files revealed that, in the case of the taxpayer's direct suppliers, the businesses listed as their main contractors and suppliers had not reported any sales to the taxpayer's designated suppliers in their own SAF-T_VAT files. In addition, the tax authority pointed to the low credibility of the taxpayer's suppliers. These entities exhibited characteristics of missing trader: their registered office was either a virtual office or office with unreachable management; the entity was managed by a foreign national without appointing a representative; there was a short period between the com-

mencement of operations and their suspension; disproportionately low share capital of the entities, relative to the value of declared turnover and purchases; significant turnover already in the first months after the entity began supplying goods; sudden cessation of operations.

The Supreme Administrative Court found that the gathered evidence, in particular the risk analysis, justified the application of account blockade including “short-term blockade” in this case.

Conclusions

VAT fraud is a significant problem for public finances. One of the measures designed to combat this harmful practice is the blocking of bank accounts through the STIR system. However, for certain entities, the application of such a block may pose a threat to their operations. This applies particularly to those entities that are not actually involved in activities related to tax crimes. The conducted research allows us to conclude that the research hypothesis was rejected. In none of the cases analyzed did the Supreme Administrative Court (NSA) find that the tax authority had unjustifiably blocked a bank account.

An analysis of these rulings shows that in each case there are specific circumstances indicating the possibility that the entities were involved in VAT fraud. In each case, there were specific circumstances that, in the opinion of the Supreme Administrative Court, justified the blocking of the account. When deciding to block a bank account, the tax authorities took multiple factors into account. These were not hasty decisions based solely on a cursory, random analysis of data concerning a single aspect of the company’s operations. The conducted research indicates that the blocking of bank accounts under the STIR system is not abused by tax authorities. The existence of such a tool contributes to reducing the scale of tax fraud and enhances the security of the public finance system, as well as economic transactions, by eliminating entities engaged in tax fraud.

The research conducted indicates that the Supreme Administrative Court holds that the tax authority is therefore required to present information suggesting, at most, the likelihood that banks’ activities are being used for purposes related to tax fraud or for acts aimed at tax fraud, rather than to prove this fact.

A key finding from the analysis of the Supreme Administrative Court’s rulings is that the Head of the National Revenue Administration does not strictly conduct evidentiary proceedings as a second-instance body. According to the Supreme Administrative Court, in proceedings concerning the blocking of a bank account, it is not necessary to prove that the entity participated in tax fraud — suspicion is sufficient; and in proceedings regarding the extension of the blocking of a qualified entity’s account, it is not necessary to prove that the entity will fail to fulfill its obligations — a reasonable fear is sufficient.

The Supreme Administrative Court has confirmed that appeals against decisions to extend the blocking of a bank account are also subject to review regarding the grounds for the so-called “short-term blocking.”

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