



TOMASZ WOŁOWIEC

WSEI University in Lublin, Poland

ORCID iD: orcid.org/0000-0002-7688-4231

PIOTR WASZAK

WSEI University in Lublin, Poland

ORCID iD: orcid.org/0009-0001-7661-8478

EWA GOLEC

WSEI University in Lublin, Poland

ORCID iD: orcid.org/0009-0009-0226-9955

ŁUKASZ WOJCIECHOWSKI

WSEI University in Lublin, Poland

ORCID iD: orcid.org/0000-0002-9403-6412

SEBASTIAN ZUPOK

Graduate School of Business - National-Louis University, Poland

ORCID iD: orcid.org/0000-0002-7969-4644

ADMINISTRATIVE-LEGAL AND ORGANIZATION-MANAGEMENT CONDITIONS OF AUDIT IN THE PUBLIC FINANCE SECTOR UNITS

ADMINISTRACYJNO-PRAWNE I ORGANIZACYJNO-ZARZĄDCZE UWARUNKOWANIA AUDYTU W JEDNOSTKACH SEKTORA FINANSÓW PUBLICZNYCH

ABSTRACT

Internal audit is performed in a diverse legal and cultural environment, for organizations that differ in their goals, size, complexity and structure. Internal auditing is performed by people both inside and outside the organization. Although the aforementioned differences may affect the practice of auditing in different environments, the application of the International Standards for the Professional Practice of Internal Auditing is an essential condition for the internal auditor and internal audit to fulfill their duties. Internal control is an immanent feature of the management process. In the functional sense, it is performed by each employee, in the institutional sense by a separate internal cell. Hence, the control system consists of: internal cells in the organizational structure, internal regulations, procedures and other control mechanisms in the enterprise/unit. Internal control operates on an ongoing basis and can respond immediately to any irregularities. Financial control is a special type of internal control – it deals with finances. Internal audit comes into contact with internal control during one of the many activities it undertakes, namely the examination and evaluation of the effectiveness of the existing internal control system.

STRESZCZENIE

Audyt wewnętrzny jest prowadzony w różnorodnym otoczeniu prawnym i kulturowym, na rzecz organizacji różniących się między sobą celami, wielkością, złożonością oraz strukturą. Audyt wewnętrzny wykonują zarówno osoby z organizacji, jak i spoza niej. Chociaż wyżej wymienione różnice mogą wpływać na praktykę audytu w różnych środowiskach, stosowanie Międzynarodowych standardów praktyki zawodowej audytu wewnętrznego jest zasadniczym warunkiem wypełniania obowiązków przez audytora wewnętrznego i audyt wewnętrzny. Kontrola wewnętrzna jest immanentną cechą procesu zarządzania. W sensie funkcjonalnym wykonuje ją każdy pracownik, w sensie instytucjonalnym wyodrębniona komórka wewnętrzna. Stąd na system kontroli składają się: komórki wewnętrzne w strukturze organizacyjnej, przepisy wewnętrzne, procedury oraz inne mechanizmy kontrolne w przedsiębiorstwie/jednostce. Kontrola wewnętrzna działa na bieżąco i może reagować natychmiast na wszelkie nieprawidłowości. Kontrola finansowa jest szczególnym rodzajem kontroli wewnętrznej – dotyczy finansów. Audyt wewnętrzny styka się z kontrolą wewnętrzną podczas jednej z wielu czynności, które podejmuje, a mianowicie badania i oceny efektywności istniejącego systemu kontroli wewnętrznej.

KEYWORDS: *public finance, public finance law, public finance law, administrative law, management control, auditing in the public sector, economic efficiency of organizations, management control standards, planning and risk management, New Public Management*

SŁOWA KLUCZOWE: *finanse publiczne, ustawa o finansach publicznych, prawo finansów publicznych, prawo administracyjne, kontrola zarządcza, audyt w sektorze publicznym, efektywność ekonomiczna organizacji, standardy kontroli zarządczej, planowanie i zarządzanie ryzykiem, New Public Management*

INTRODUCTION

The term *audit* is derived from the Latin word *audire*. It means to listen and interrogate and hear, as well as to examine. It was not until the 1870s, 1880s that the meaning of the term audit began to take shape, referring to the functioning fields of science and business, focusing on examination and evaluation. Today, the form adopted and the way it works is referred to as modern auditing. In the search for a definition of audit, it is necessary to refer not only to the literature on the subject, but also to guidelines, standards or regulations that use both the term *audit*, *internal audit* and *external audit*, as well as the term *review* or *control*. This is due to the fact that audit in the initial phase of its formation was a specific form of auditing and financial control, but over time it definitely took on a much broader form, although to this day it is also sometimes referred to in this way (Skoczyła, 2014).

Speaking of audits, one can distinguish between internal and external audits. Internal audits, sometimes called first-party audits, are conducted by or on behalf of the organization itself. Audits are a systematic, independent and documented process of obtaining audit evidence and objectively evaluating it to determine the extent to which audit criteria are met. External audits, on the other hand, include audits generally referred to as second – and third-party audits. Second-party audits are conducted by parties with an interest in the organization, such as customers or others on their behalf. Third-party audits are conducted by independent auditing organizations, such as those that provide compliance certification/registration, or by government agencies. Internal auditing is an independent, objectively assuring and advisory, the purpose of which is to add value and improve the operations and improvement of the organization. It helps an organization achieve its goals through a systematic and disciplined approach to assessing and improving the effectiveness of its risk management, control and governance processes (Międzynarodowe standardy Profesjonalnej Praktyki Audytu Wewnętrznego).

Internal audit is an objective, independent activity and its purpose is to add value and improve the operational activities of an organization. Internal audit belongs to the system defined as an internal control system. Although there are many definitions of internal audit in the literature, they all boil down to

emphasizing the essence of audit, which is to assess the performance of the organization's properly defined objectives. The essence of internal audit is (Międzynarodowe Standardy Profesjonalnej Praktyki Audytu Wewnętrznego):

- objectivity,
- independence,
- verification activities,
- advisory activity,
- preventive activities.

The mission of internal audit is to serve the organization by performing audits. It is performed in an independent and professional manner. The audit should be correlated with the organization's objectives, meet the requirements in accordance with the law and be conducted in accordance with the standards of the (Czerwiński, Grocholski, 2003). Today there are many definitions of internal auditing. They can vary as they relate to literature and practice. Most often they are descriptive definitions. Internal audit is an instrument that actively, independently and objectively evaluates the effectiveness of the system regarding internal control, as well as risk management processes. It ensures the effective conduct of all operations and activities of the organization. It is designed to add value by revealing deficiencies and also weaknesses and by pointing out ways to improve quality along with productivity (Saunders, 2002). The definition of the Institute of Internal Auditors is: *internal audit is an independent, objective activity of an assurance and advisory nature conducted to add value to an organization and improve its operations. Internal audit supports the organization in achieving the guidelines of its objectives through a systematic and consistent activity to assess and improve the effectiveness of the organization's risk management, control system and management processes.* (Padzik, 2002).

According to J. Jagielski, internal audit is *a component of the internal control system in the sense that it extends this system with a control mechanism as well as monitoring and advisory, serving the head of the organization, allowing the assessment and diagnosis of the entirety of processes and states occurring in this entity, primarily in the plane of management of financial resources, as well as in the organizational sphere, human resources, or in relation to the functioning of internal control and procedures related to it.* (Czerwiński, 2005). The lexicon of Human

Resources Management (HRM) indicates that the word *audit* means *a deep and detailed analysis of an organization's activities, conducted by external, independent specialists in order to reveal possible problems or irregularities in its functioning*. In contrast, the word *internal* means located inside or within something (Podolchak, Martyniuk, Tsygylk, Skowron, Wołowiec, 2022; Pollitt, Bouckaert, 2011). The concept of internal audit is also defined in legislation. The Polish Law on Public Finance defines internal audit as an independent and objective activity, the purpose of which is to support the head of an entity or the competent minister in achieving goals and objectives through systematic evaluation of management control and advisory activities. According to the standards, for auditing quality and environmental management systems, an audit is a systematic, independent and documented process of obtaining audit evidence and evaluating it objectively to determine the extent to which audit criteria are met (Hamrol, 2008).

Summarizing the definitions presented above, it can be pointed out that internal audit is:

- all activities that assess the functioning of the entity in terms of its legality, economy, reliability, expediency, transparency and also openness through an independent examination of the management, control systems in the entity,
- all advisory activities aimed at improving the functioning of the entity's management.

Audit is a form of service provided by an independent team of people, a person or an institution, which, through a systemic assessment, is intended to provide management with information on the efficiency of all areas of the entity and to identify opportunities for their better, more efficient operation. Audit can be provided in the form of services performed by a specially established organizational unit or a designated team of people inside the entity or an external institution, then it is referred to as internal and external audit, respectively (Skoczylas, Tworek, 2014).

REASERCH METHODOLOGY

The research methods used in the legal sciences are related to their problematics and the functions performed. In the literature of legal theory, it is indicated that within the legal sciences we distinguish dogmatic, socio-technical and theoretical problematics. Dogmatic problematic concerns the identification of legal norms belonging to a given system of law. Sociotechnical problematics in the legal sciences is related to the impact of law making and the corresponding application of the law on certain social effects. The theoretical problematics of legal science concerns the formulation of claims about the applicable law. From this scope arises the methodological problematics of legal science, dealing with the description of methods, ways of solving particular problems or formulating directives on how to solve these problems (Reško, Wołowiec, Żukowski, 2010).

In special areas of law – which management control undoubtedly is – it is necessary to recognize the need to undertake multidisciplinary and interdisciplinary research. Thus, in the work – analysing the issues of the functioning of management control in legal and management aspects – traditional research methods used in the scientific study of law (generally in the social sciences) were applied:

1. linguistic analysis (formal-dogmatic and linguistic-logical analysis of the regulation of public finance law on the organization and functioning of management control in the public sector, taking into account the judgments of administrative courts and guidelines of tax authorities);
2. economic analysis of the law of public finance (including the analysis of the economic effects of implementing management control procedures from the perspective of efficiency and rationality of management processes in the public sector),
3. comparative method (showing the issues of legal and organizational regulations in the field of general public finance law in Poland and the EU, taking into account court decisions).

Induction was used as the main research method. It consists in drawing general conclusions or establishing regularities on the basis of analysis of empirically established phenomena and processes. It is a type of inference based

on details about the general properties of a phenomenon or object. The use of this method requires the assumption that only facts can form the basis of scientific inference. These facts are real-life situations (social, legal, or organizational). Inductive methods include various types of analysis, expert opinion, statistical data and scientific documents used in social research. In addition, the paper uses two general research methods, i.e. analytical and synthetic methods, which are characterized by a particular approach to the study of reality.

CONDUCTING AN INTERNAL AUDIT

Internal auditing in public sector is regulated by the provisions of Section VI of the Law (Articles 272-296). The entities subject to internal audit are listed in Article 274 of the Act, indicating in paragraph 4 that internal audit shall also be conducted in those public sector units whose managers decide to conduct an internal audit. At the same time, according to Art. 274(7) of the Law, the managers of these units, shall inform the Minister of Finance in writing of the commencement of conducting an internal audit. Thus, the provision of Article 274(4) of the Law introduces the possibility of conducting internal audit internal audit in public sector in which the Law does not introduce mandatory internal audit internal audit. On this basis, internal audit can be conducted in all units referred to in Article 9 of the Law when the manager decides to do so (Wojciechowski, 2018).

However, the provisions of the Law do not specify the form in which the aforementioned decision is to be made. The head of the entity, pursuant to Article 274 (7) of the Law, is required to inform the Minister of Finance in writing of the commencement of internal audit. On the other hand, conducting an internal audit in units in a department is mandatory when to conduct an internal audit, also specifying the date of commencement of conducting internal audit, the unit will be obliged by the competent minister in charge of the department (Article 274(5) of the Law) (Szlachna, 2024).

Pursuant to Article 277 (1) of the Law, in jsfp whose managers decide to conduct internal audit, multi-person or single-person internal audit cells. Interpreted a contrario, it can be assumed that in public sector

(those not covered by the internal audit obligation) in which the manager has not decided to conduct an internal audit, it is not necessary to create an internal audit cell, as referred to in the provisions of the law. The legal doctrine emphasizes that: „The establishment of an internal audit cell is mandatory in units conducting an audit (Article 277(1) of Public Finance Law), with the exception of units authorized to conduct internal audit on a commissioned basis commissioned (Article 278 of Public Finance Law). In units using the services of external entities external entities in performing internal audit activities, internal audit cells are not created. Organizationally, the internal audit cell is directly subordinate to the head of the unit of the public finance sector of public finances, as an entity obliged to ensure the independence of the audit. It may employ one or more internal auditors. (...). Independence of functioning should speak for securing for the audit cell the the possibility of independent functioning on the substantive side, i.e. focusing its activities exclusively on internal audit issues and organizationally, by employing support staff to support the work of the cell's head and auditors employed in it (Komentarz do art. 277 Ustawy o finansach publicznych, Mikos-Sitek 2023, Lipiec-Warzecha, 2011).

It should be noted that when establishing an internal audit function, it is important to place it properly in the organizational structure of the jsfp. Article 280 of the Law allows only one type of subordination of the head of the internal audit cell or internal auditor (in the case of a one-person internal audit cell), i.e. direct subordination to the head of the entity. The internal audit cell is also supposed to have organizational distinctiveness from other organizational units in the public sector units (Article 282 of the Law). The above solution is intended to prevent attempts to limit the scope of internal audit and to prevent conflicts of interest that may arise when internal audit is combined with the performance of other jsfp tasks. In view of the above legal analysis and the solutions adopted by jsfp, the doubts expressed in the following questions should be clearly resolved: is it possible to conduct internal audit on the basis of a decision of the head of the jsfp, which would not at the same time constitute a decision within the meaning of Article 274(4) of the Law? The rules for conducting internal audit in jsfp are regulated in the provisions of Section VI of the Act (Articles 272-296 of the Act) and in the implementing regulations.

The provisions of the Law do not contain any other regulations providing for the conduct of internal audit within the meaning of Article 272 of the Act. In view of this, it is reasonable to conclude, that if internal audit is conducted in public sector units based on the decision of the manager, then it is not an internal audit other than that provided for in the provisions of the Law. In other words, the decision of the manager of a jsfp in which there is no requirement to mandatory conduct of internal audit, a decision to voluntarily to conduct an internal audit in that entity, should be considered a decision made under Article 274(4) of the Law, regardless of the form in which it was made. Whether the decision of the head of the entity to conduct an internal audit on the basis of Article 274(4) of the Law should be issued in a specific form? The provisions of the Law do not specify the form in which the decision should be made by the head of the public sector referred to in Article 274(4) of the Law. The consequences provided for in the provisions of the of the Act, on the other hand, allow us to assume that the decision may take the form of an implied decision as well – on the basis of further actions of the of the manager in a given public sector units (e.g., in the form of the establishment of an internal audit unit on the basis of an based on the manager's order introducing the organizational regulations of the public sector units).

In the case of a decision by the head of a jsfp under Article 274(4) of the Law of the Act, the head of this unit, pursuant to Article 274(7) of the Act , is required to inform the Minister of Finance of the commencement of internal auditing. Is it possible for the head of the jsfp to limit the application of the provisions of the law (the Law and regulatory acts) in the field of internal audit and management control? As a consequence of the jsfp manager's decision to conduct an internal audit internal audit, as required by Article 277 (1) of the Law, the manager is required to establish in the entity a multi-person or single-person internal audit unit (subject to Articles 277(2) and 278 of the Law). According to the Ministry of Finance, it is difficult to find another purpose for the establishment of an of an internal audit function within the organizational structure of an entity other than the one resulting from the decision of the head of the entity to conduct an internal audit within the meaning of Article 272 of the Act, even in a situation where this decision was not made in writing. Otherwise, the establishment of an organizational unit

organizational unit carrying out auditing tasks would indicate, among other things, a lack of expediency and economy in the expenditure of public funds for the functioning of such an organizational unit, which does not carry out tasks under the Law (Wojciechowski, Popik-Konarzewska, 2022).

Making a decision by the head of an entity to conduct an internal audit and the creation of an internal audit unit as a result of this decision results in the need to hire internal auditors who meet the requirements indicated in Article 286 of the Law. Introducing into the internal regulations of the entity reservation, according to which the internal audit cell is not a cell established pursuant to the provisions of Article 277, paragraph 1, in conjunction with Article 274, paragraph 4, of the Law, can be considered in terms of an attempt to circumvent the generally applicable provisions of the Law by means of an internal law act. In the case of a decision by the head of the jfp to conduct a voluntary internal audit on the basis of Article 274(4) of the Act, this manager is obliged to apply the provisions of Section VI of the Law and the implementing acts to the extent that they follows from Articles 272-296 of the Law, including those concerning the establishment of an internal audit function internal audit. The public sector units manager does not have the ability to effectively limit the application of the provisions of the Law and implementing acts in the field of internal audit by introducing acts of internal law, particularly of an organizational nature (Wojciechowski, 2018).

POSITION AND ROLE OF AUDIT IN THE INTERNAL CONTROL SYSTEM

The environment in which audit operates is the entity and its environment. Thus, in determining its characteristics, it is necessary to look at the organization, as well as the factors that affect it, and thus the audit service. The institution is a certain process of undertaking a certain activity appropriate to achieving the objectives established for it within the framework of the established conditions, equipment, possessed financial, human, technical resources and their appropriate combination adequate, to the tasks performed (Gabrusiewicz, 2010).

For the proper functioning of an entity, it is necessary to manage it properly, aiming to achieve the goals and activities that are the essence of its existence. Management should be based on certain principles, guidelines and regulations that define the expectations of the organization's management with regard to the resources it has and the goals it pursues, in other words, management should be causal in nature with regard to the organization (Moeller, 2011).

The adopted set of rules, structures within the entity, as well as the environment conditioning their implementation, as mentioned earlier, means the internal control system adopted in the institution. The internal control system should be organized in a well-thought-out and orderly manner so as to ensure the proper and stable functioning of the entity. Created by managers and employees themselves, it contains this information, as well as management procedures, the premise of which is to maintain a constant or achieve a higher degree of maturity of the organization (Osborne, Geabler, 2005).

This system encompasses the objectives of the entity's operations, the regulations under which it conducts its activities, and the established processes and procedures of operation, thus constituting the internal environment of the organization. It must be tailored to the needs of the institution, its expectations and capabilities, as well as the resources at its disposal. The internal control system is a system of interconnected vessels, in which one element influences the others (Wołowiec, Szybowski, Bogacki, 2019). Properly managed and controlled, it will function properly. However, it should be borne in mind that the established system operates within the organization, but the way it functions is also influenced by the external environment, characterized by varying degrees of complexity and volatility, and thus different vulnerability to risk. In particular, this applies to economic, legal, commercial, environmental, regional or competitive conditions. These are factors that have a significant impact on the internal environment of the organization, and thus on the internal control system in operation.

The organisation and functioning of the internal control system within an institution depends on the individual, his or her skills, qualifications, vulnerability to risk, propensity and ease of analysing information, decisiveness, communication skills and a number of other personality traits. Therefore, there is no single template that defines the operation of this system, universal to be applied to the structure

of any institution (Wołowiec, Bogacki, 2021). This system is different in each individual, it undergoes transformations, depending on the needs and expectations of the managers, conditioned by their personal characteristics, the situation of the organisation and the formation of external factors (Winiarska, 2017).

The effectiveness of the internal control system is determined by a number of aspects. Among these, it should be mentioned in particular (Szymańska 2007):

- the appropriate distribution of tasks and responsibilities, commensurate with qualifications and responsibilities;
- the adaptation of controls to the identified risks;
- an appropriate information and communication system;
- efficient and economical use of resources;
- ongoing monitoring and evaluation of the system.

The appropriate division of roles and responsibilities within the internal control system is an extremely important issue. The manager of each organisation is responsible for the proper and efficient operation of the institution (Wołowiec, Skowron, Cwynar, 2023). While in smaller organisations control over how the unit operates is not a major problem and may be concentrated in the hands of one person, in larger institutions this responsibility is dispersed. This dispersion is intended to distribute responsibility for oversight and control over different areas of the entity's operations. It is important to delegate these tasks to competent persons and to designate their role, but it should not be forgotten that the final decision always rests with the manager of the institution. The distribution of tasks between individuals should be appropriate to their qualifications and to the responsibility entrusted to them. A very important role in the internal control system is played by controls, which means any action taken by management. These can take the form of actions, regulations, standards or procedures. Controls have a risk mitigation function, hence their action should be aimed at reducing a risk or group of risks, but it should be remembered that neither an excess nor a deficiency of controls is advisable. What matters in this case is their importance, appropriateness, effectiveness and efficiency (Wołowiec, Szybowski, Prokopowicz, 2019). To achieve these characteristics, control mechanisms should:

- fulfil their stated purpose, consistent with the organisation's mission and accepted ethical principles;

- minimise the risks to which they are assigned;
- provide reliable and credible information;
- comply with applicable laws and the entity's established policies;
- ensure economical and efficient use of the organisation's resources in a broad sense;
- ensure adequate safeguarding of the entity's assets
- take a form appropriate to the significance, relevance, specificity and type of risk (Winiarska, 2017).

Hence, it is important to ensure that the organisation has effective controls in place to address emerging risks by appropriately organising the entity's management system and ensuring the effectiveness and efficiency of the controls adopted within that system (Wołowiec, 2021). Another important element and confirmation of the operation of the internal control system is the effective flow of information and proper communication. The activities of every organization are exposed to various types of threats that may not only disrupt its current functioning, but also in the long run contribute to the deterioration of its position on the market. This phenomenon is intensified by economic complexity, which means that management in a decision-making situation has a wide range of information and data at its disposal, while only appropriate and appropriate information is necessary to make a rational management decision (Malara, Rzęchowski, 2011).

FINANCIAL PLAN AND THE OBLIGATION TO CONDUCT AN INTERNAL AUDIT

Clarification on the method of determining the amount that triggers the obligation to conduct an internal audit (Wołowiec, 2021). Recently, the Department of the Effectiveness of Public Expenditures and Accounting has been receiving questions and requests to indicate how to determine the amount that triggers the obligation to conduct an internal audit. The questionable issue concerns the definition of what is meant by the *financial plan of a budget unit*. Pursuant to Art. 274 section 2 points 1 of the Act of August 27, 2009 on public finances,

hereinafter referred to as: the Act – Internal audit is carried out in state budgetary units if the amount of income or expenditure included in the financial plan of the budgetary unit exceeds PLN 40,000 thousand. zloty. The amount indicated in Art. 274 section 2 of the Act applies to public funds, including public funds referred to in Art. 5 section 1 point 2 (funds from the European Union budget and non-repayable funds from aid granted by Member States of the European Free Trade Association (EFTA)). Moreover, Art. 11 section 3 of the Act indicates that: the basis for the financial management of a budget unit is the plan of income and expenses, hereinafter referred to as the *financial plan of the budget unit*.

The Act indicates one plan, it does not separate the financial plan of the budget unit for national funds and the financial plan of the budget unit for the budget of European funds. The legislator did not exclude any public funds from the financial plan of the budget unit, including public funds referred to in Art. 5 section 1 point 2. Likewise, these funds should not be excluded when determining the amount at which the obligation to conduct an internal audit arises. Exceeding the threshold 40,000. PLN of the amount of income or the amount of expenses in the financial plan of a budget unit refers to the financial plan as a whole. The financial plan of the budget unit includes both national and European funds (which are separated). In the context of the obligation to conduct an internal audit, the method of recognizing and presenting public funds, including funds from the European Union budget, in the financial plan of a budget unit is irrelevant.

CONDUCTING INTERNAL AUDITS IN LOCAL GOVERNMENT CULTURAL INSTITUTIONS

One of the mandatory tasks of local government units is to conduct cultural activities. Pursuant to Art. 9 section 1 of the Act of October 25, 1991 on organizing and conducting cultural activities, local government units organize cultural activities by creating local government cultural institutions for which conducting such activities is the primary statutory goal. Cultural activity involves the creation, dissemination and protection of culture, and the organizational forms of cultural activity include in particular: theatres,

operas, operettas, philharmonic halls, orchestras, film institutions, cinemas, museums, libraries, cultural centers, artistic centers, art galleries and research centers and documentation in various fields of culture.

Local government cultural institutions are units of the public finance sector (Article 9, point 13 of the Act of August 27, 2009 on public finances) and have legal personality. Pursuant to Art. 287 section 1, to conduct an internal audit in a local government unit, including its organizational units, an internal auditor employed in the office of a local government unit is authorized accordingly by: the commune head, the mayor, the president of the city or the chairman of the management board of the local government unit. The concept of *organizational units of a local government unit*, used, among others, in the above-mentioned provision of the Public Finance Act, applies both to units that do not have their own legal personality (their legal existence is based on the legal personality of a given local government unit), as well as the so-called Local government legal persons, especially those established by a local government unit. Taking the above into account, in the opinion of the Department of Expenditure Policy of the Ministry of Finance, the commune head, mayor, city president or chairman of the management board of a local government unit may authorize an auditor pursuant to Article 287(1) of the Public Finance Act internal employee employed in the office of a local government unit to conduct internal audit in local government cultural institutions established by this unit.

CONCLUSIONS

The introduction and application of an internal procedure for preventing failure to comply with the obligation to provide information on tax schemes results from the provisions of Art. 86 l § 1 of the Tax Ordinance Act. This procedure should include, among others: defining the principles of internal control or audit of compliance with the provisions of Chapter 11a of the Tax Ordinance and the principles of conduct specified in internal procedure.

The intention of the drafter was to oblige entities acting as promoters within the meaning of the Act and entities employing promoters or actually paying them remuneration to introduce a mechanism to prevent failure to fulfill the

obligation to provide information on tax schemes. An additional criterion limiting the obligation to introduce an internal procedure for such an entity is the achievement of revenues or costs, within the meaning of accounting regulations, determined on the basis of the accounting books, exceeding the equivalent of PLN 8 million in the year preceding the financial year. The aim of the discussed solution is to create an appropriate tool enabling the correct and timely fulfillment of information obligations incumbent on promoters. The internal procedure allows you to determine the scope of responsibility of persons involved in performing individual activities related to the schemes (development, presentation, implementation, audit, etc.) for the implementation of the obligation to report or report the scheme. It should also guarantee the proper fulfillment of the promoter's information obligations towards the user.

Taking into account the provisions of Art. 86 l of the Tax Ordinance can indicate how the above obligations should be performed by entities belonging to the public finance sector. Public finance sector units that act as promoters within the meaning of the Tax Ordinance and employ promoters or actually pay them remuneration are obliged to introduce and apply an internal procedure for providing information on tax schemes. Generally, beneficiary entities³ that employ advisors (including tax advisors/legal advisors) under employment contracts are not obliged to have an internal procedure, unless this person acts as a promoter in relation to other entities, e.g. subordinated and supervised entities. As a consequence of the above-mentioned regulation, there is no need to introduce and apply an internal procedure for providing information on tax schemes by public finance sector entities that do not act as promoters within the meaning of the Tax Ordinance.

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