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APPLICATION OF LAW AND ECONOMICS TO STUDY THE EFFECTIVENESS OF ACCOUNTING REGULATIONS

Summary

Introduction

The challenges people involved in accountancy have to face nowadays require a broad perspective. To paraphrase Olivier Holmes, it may be said that a person dealing with accountancy can no longer be just an economist, but must also be a master of law and statistics. They also have to take increasing responsibility. This publication is the result of an interdisciplinary approach combining accounting theory and philosophy of law. It also presents the assumptions of the intellectual movement of law and economics and the practical tools of this method which can be used in the area of the Polish accounting law.

The author analyses the impact of current legal problems, such as excessive regulation, instability and inconsistency, on the Polish accounting law, pointing to its low quality and signalling the effects of such a state on the security of business transactions. In the further part of the work, the author proposes a solution to some of the problems by setting the aim in the form of economically effective law.

This monograph is aimed at a wide audience: social science theorists, regulators and practitioners who, acting various roles, pursue a common goal—to reflect economic reality in financial statements, so that the information needed to make economic decisions is of high quality, and thus the security of business transactions is protected. They are, in particular, academic researchers dealing with issues related to financial reporting and law, legislators and politicians, lawyers, professionals dealing with accountancy.

Aims

The main aim of the monograph is to present the possibility of using law and economics to study the problems of the Polish accounting law manifested in its low effectiveness. The

author examines the impact of legal regulations on financial decisions made by people dealing with accountancy. Research conducted in other areas of law shows the importance and usefulness of this method, which prompted the author to make an attempt at filling the research gap in the field of applying law and economics in the accounting regulations. The realisation of this aim would not have been possible without completing two minor objectives. First of all, it was necessary to characterise and assess the quality of the Polish accounting law. Secondly, it was necessary to present the essence and purpose of law and economics as a tool for examining the effectiveness of law.

The considerations contained in the monograph are based on the assumption that the law should not only be effective, i.e. pursue the goals for which it has been established, but should also be economically effective—it should lead to an increase in social welfare. A society that is better organised makes better use of its resources, and a high degree of organisation of society can be achieved by law.

The basic task of law and economics is to check whether a given law defines an economically effective system of allocating goods, conducive to increasing the wealth of the society by minimising social costs and limiting the phenomenon of wasting economic values. It also allows the rationalisation of legal procedures for creating and applying law with the use of tools known in economics. Thus, it helps to use the science of economics in the creation and application of law (e.g. by assessing the effects of legislative changes in the field of valuation, so as to maintain a balance between the needs of the recipients of information based on historical cost and the needs of the recipients of information based on fair value). In addition, it allows for using the achievements of legal science when examining accounting theory (e.g. by applying the examination of abusive clauses to mandatory disclosures in financial statements). Therefore, in a broader perspective, this monograph is an attempt to define the conditions for change in social life, which may undoubtedly be brought about by the correct making and interpretation of the law.

Additionally, another aim of the monograph is to present examples of areas of implementation of law and economics into the national accounting law. The author formulates and justifies specific postulates for legislative changes and postulates for changes in the ways of interpreting the law, developed on the adopted methodological ground. At the same time, the author analyses the effectiveness of his own proposals, pointing to aspects that prove that the proposed solutions are not optimal despite their greater efficiency, and signalling the need to take into account the costs of compensation, etc. This serves to illustrate the complexity and processuality of law-making and interpretation, as well as to illustrate the possibilities offered by law and economics as a tool for improving the system and supporting entities participating in these processes. Each analysis and proposal is complemented by a thought experiment or a case study.

The author suggests the following examples:

1. Using the efficiency criteria in solving problems at the level of the legislative procedure:
 - examination of the need to provide disclosures that, in a society oriented towards one of two alternative methods of valuation (historical cost or fair value), will allow a smaller part of the society to meet their information needs;
 - tailored reporting templates eliminating undesirable narratives in financial statements (e.g. image-building).

2. Using law and economics in shaping the accounting policy of an entity where the legislator has left room for selection in the accounting law (here: selection of valuation methods by the manager of the entity perceived as homo oeconomicus, who is able to analyse the benefits and costs of individual valuation methods and assess the individual needs of the recipients of the report).
3. Using an economic approach to criminal law (penal provisions of the Accounting Act) to effectively use the deterrence model and optimise penalties (here: moderating penalties – flexible dependence of the sentence on the severity of the prohibited act, and not a rigid determination of the penalty; replacing the penalty of imprisonment with a moderated fine).

Methodology

In order to achieve the above-mentioned aims, the author has used a number of research methods, selected for the stage and module of the research, as well as for the optimal structure of the study.

The description and evaluation of the quality of the Polish accounting law, followed by the presentation of the essence and purpose of law and economics as a tool for examining the effectiveness of law, have primarily been made using the method of a systematic literature review, the method of analysis and logical construction, the dogmatic-legal method and the theoretical-legal method. The considerations were the starting point for determining the applicability of law and economics to study the economic effectiveness of the accounting law.

Using law and economics to accounting regulations is possible under the assumption that the information derived from accountancy may be treated as economic goods, and the entity's financial statements as a product. In this approach, financial information has qualitative features classified in various ways: usefulness, faithful presentation, comparability, verifiability, timeliness, comprehensibility. For financial information understood in this way, two general postulates of law and economics have been applied—the postulate of directing the good (reported information) to the entity that assigns the greatest value to it, and the postulate of optimisation of transaction costs (costs necessary for the recipient to receive the appropriate quality information needed to make an economic decision).

On the basis of three examples, the author has shown possible implementation of detailed postulates of law and economics, i.e. amendments to the law proposed by the author. The appropriate method of analogical transfer was used, based on the assumption that certain facts are economic events or can be brought down to economic events. The transposition method serves as an introduction to the examples. The examples themselves were created using the methods of thought experiment, case study and transposition. In addition, the author used the dogmatic-legal, theoretical-legal and law and economics methods.

Results and conclusions

The result of the research is the implementation of law and economics into the Polish accounting law. The author claims that the accounting law should meet a total of at least three postulates to be effective:

1. It should minimise transaction costs related to the transfer of financial information.
2. It should direct the standards or principles adopted for application at the qualitative features which are most important from the point of view of the recipient of the information.
3. It should use accounting theory as an independent source of law, constituting the core and providing proper hermeneutics of regulations.

Compliance with the above criteria will allow for the creation and interpretation of accounting law provisions that will be conducive to the presentation of a faithful and reliable image of the entity in financial statements, while protecting the security of business transactions.

Originality and value

Despite the growing interest in law and economics, this publication is probably the first such an extensive attempt to apply this method in the field of the Polish accounting law. The proposed uses of law and economics to create and interpret economically effective accounting law certainly do not exhaust all possibilities. In-depth research may indicate other areas of using law and economics in accounting research. The application of this method is worth examining not only within the accounting law, but also for reporting regulations or even the correspondence of reporting regulations with other elements of the legal system, both national and international. Further research may concern other economic models and concepts, such as game theory or the endowment effect, and their application to the accounting law. Thus, the high potential of usefulness of law and economics determines an important research area for further development of accounting theory and legal theory. The interdisciplinary nature of this publication indicates the possibility of conducting research with the use of methods, tools and currents of thought from other areas of science, which should bring a more holistic view.

Keywords: accountancy, accounting theory, financial reporting, law and economics, philosophy of law, reporting regulations.

Translated by Krzysztof Stec

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