

Unethical Taxpayer vs. Unethical State: Abuses in the Tax Relationship

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Jan Sobuś

Poland

Tax Advisory Student
Cracow University of
Economics*, Cracow,
(Poland)



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Give to everyone what you owe them: If you owe taxes, pay taxes; if revenue, then revenue; if respect, then respect; if honor, then honor.

(The Bible, Romans 13:7)

By justice a king gives stability to the land, but one who makes heavy exactions ruins it.

(The Bible, Proverbs 29:4)

Since the dawn of civilization, the imposition of taxes has been an indelible feature of statecraft. Every tax relationship involves two parties: the taxpayer and the state. With regard to both of these sides, ethics, understood as the science of moral conduct and the determination of what is right, can assert its prerogative to adopt a stance. The authors of the Bible were already persuaded that both taxpayers and tax authorities must engage in ethical behavior.

Indeed, the Bible, whether or not considered by some as a religious authority, has undeniably played a pivotal role in the evolution of Western civilization's ethical framework. The two biblical passages referenced at the outset may on the face of it appear contradictory, but they convey a fundamental truth that is frequently overlooked in today's world. Ethics in tax relationships should apply to both parties. Yet currently, one-sided approaches frequently dominate, depending on the prevailing view.

According to one view, tax authorities cannot be held responsible for anything because they uphold the common good, while any more or less lawful tax optimization practices by taxpayers are mere schemes and attempts to evade a fair contribution to society. In contrast, a second view

holds that the state, as an institution, is inherently evil, seizing private property through taxes, stifling private initiative, and even assuming the role of a law-sanctioned thief. Which of these views is true? According to Aristotle, a seminal figure in Western philosophical thought, we should rather strive to find the “golden mean” instead of embracing extreme positions. In formulating guidelines for taxpayers to meet their fiscal duties and simultaneously prohibiting authorities from engaging in fiscal oppression, the biblical authors explicitly recognize the potential for misconduct on both sides of the tax relationship.

The aim of this paper is to examine actions on both the part of the taxpayer and the state that clearly diverge from ethical standards. It also examines the extent to which unethical practices by taxpayers are driven by the misconduct of tax authorities and vice versa. In conclusion, the paper attempts to outline standards, recommendations, and appropriate behavior that needs to be observed by both taxpayers and tax authorities. Although the paper focuses on issues rooted in Poland’s legal and economic context, numerous aspects have a broader relevance and can be applied to tax relationships in other countries. Where appropriate, as in this introduction, the paper draws on the foundational sources of ethical discourse that are central to Western civilization.

Taxpayers’ ethics

The state is an institution whose role is to foster cooperation between individual actors in pursuit of the common good of society. By observing the world around them, a person comes to understand that they are a social being by nature, and that only through cooperation with others can they meet both their own needs and the needs of those who are dear to them. For the state to function effectively and address these needs, it must possess sufficient financial resources to take action in pursuit of the common good. Hence arises the state’s right to levy taxes that the taxpayer is obliged to pay. If no one paid taxes, humanity would in all likelihood never have succeeded in building a robust civilization.

However, when an individual taxpayer neglects to pay taxes while others comply, they still enjoy state-provided benefits, such as security, healthcare, and education. This free-riding activity is at the cost of those who shoulder the tax burden and contribute to the common good. Keeping in mind that the collapse of tax compliance would lead to societal breakdown, the common good demands that the state imposes taxes upon dishonest taxpayers who should be subject to penalties if they refuse to pay them.

Before considering why taxpayers avoid paying taxes, it is worth noting the various forms that avoidance can

take. Tax avoidance can range from overtly illegal acts, such as making false declarations in tax returns or concealing income, to practices that, although technically lawful, run counter to the spirit of the law by exploiting loopholes and regulatory gaps. The concept of tax optimization deserves to be addressed in greater detail. It often carries a pejorative connotation in contemporary discourse, but the concept is in fact inherently ambiguous, because at least two types of tax optimization can be distinguished.

How do taxpayers avoid taxation?

One consists in lawfully utilizing existing tax provisions to reduce the overall tax burden. Poland's Supreme Administrative Court (2022) has emphasized that a taxpayer is under no obligation to pay the highest possible amount of tax: as long as his or her actions fall within the limits set by the legislator, their choices are deemed permissible. It is therefore not unethical, for example, for an entrepreneur to make use of the R&D relief in income tax, which permits the costs of R&D investment to be included twice or even three times in tax-deductible expenses when measuring the business's tax base. Such an approach is explicitly permitted by the state, which acknowledges that offering preferential tax treatment to innovative businesses serves

the common good and broader societal objectives by fostering innovation and contributing to national economic growth.

However, there is another type of tax optimization that attempts to "outsmart" the tax authorities through the use of artificial schemes. One example involves transferring income raised in Poland to tax havens by imposing an artificially inflated, non-market-based fee for leasing a trademark on a subsidiary registered in a tax haven. Another example of aggressive and clearly unethical tax optimization is known as treaty shopping, which exploits double taxation agreements between different states to secure non-taxation of income.

As part of this practice, taxpayers sometimes set up conduit companies, which are established solely for this purpose. They do not undertake any business activity and have no assets but are designed purely to exploit dividend tax exemptions granted under an agreement between the source country and the country where the conduit company is located. By employing these intermediaries, it becomes possible to avoid taxation of the cash flow. Wherever artificial entities are established without reasonable economic rationale, or where evident loopholes in the regulations are exploited, one is no longer dealing with tax optimization but rather with tax avoidance, which is certainly unethical. Exploiting

a legislative oversight or loophole, or establishing artificial entities, amounts to attempted deception of the state by the taxpayer and, by extension, of all other taxpayers who meet their fiscal obligations honestly.

Why do taxpayers avoid taxation?

Filipczyk (2015) points out that an action which formally complies with the letter of the law but contradicts its spirit and intent violates the categorical imperative formulated by Kant (1953), whose philosophy profoundly shaped Western ethics. This imperative says that people should act according to a rule of conduct that might serve as a universal law. Would a taxpayer who deceived the tax authorities through various tricks genuinely wish for such methods to be applied consistently for everyone? Imagine a situation in which a lender, engaged in a civil law relationship with that same taxpayer, employed similar schemes and exploited regulatory loopholes or omissions which were clearly contrary to the intent of their relationship, when drafting the loan agreement, ultimately forcing the borrower (the taxpayer) to repay twice the standard interest. Would the taxpayer like to find themselves in such a situation? So why do they put other taxpayers and citizens in such a situation when they avoid taxation themselves?

When examining the roots of taxpayers' unethical conduct, several potential causes should be considered. The first and clearly most significant factor is the pursuit of financial gain. There will always be individuals within society who seek to gain an advantage at the expense of others. In some societies they are more prevalent, in others less so, but they exist and will continue to exist. They cannot be entirely eliminated from society, any more than drunk drivers, thieves, or murderers.

However, there are also cases in which a taxpayer fails to satisfy their tax obligations or attempts to "outsmart the tax office" for reasons that go beyond their own financial gain. Taxes, as mentioned earlier, are intended to serve the common good. But is this always the case? Will a citizen be willing to pay taxes if the tax office approaches them as a presumed fraudster? Will a citizen be inclined to pay taxes if the tax law is drafted so opaquely that they cannot even make sense of it? Will a citizen be willing to pay taxes if the tax money distribution across society runs counter to the principles of justice?

These questions point to a broader issue which the following section will address: the ethical attitude of the state.

Modern democratic political systems are increasingly distancing themselves from the notion that individuals under the authority of the

state are mere subjects, as in feudal regimes, or even its property, as in totalitarian systems. Today, “citizen” is defined by the Polish language dictionary (2025) as “a member of society in a state, endowed with specific rights and obligations conferred by law and the constitution.” The relationship between the citizen and the state is thus a reciprocal one: both parties are bound by rights and obligations.

Ethics of tax authorities

The ethical responsibility of a taxpayer extends beyond merely paying taxes. They can also hold tax authorities accountable for implementing an effective tax collection policy. When a social relationship confers rights exclusively on one party while imposing only obligations on the other, it loses its ethical foundation and takes on the character of tyranny. What, then, is a taxpayer entitled to expect from the tax office? Although it may seem trivial, they should expect exactly what the state expects of them.

In today’s world, when tax law is complicated and opaque, it is challenging to establish that taxpayers’ rights have been fully realized. Poland’s Constitutional Tribunal (2003) emphasizes the importance of the principle that tax law should have sufficient clarity, but this is often not the reality. In addition, taxpayers should rightfully be able

to expect that the tax policy implemented by the state will be predictable and stable. A key ambition of any business is the development of long-term operating and growth strategies. Can a company plan its development properly and anticipate its situation when, just before the onset of a new fiscal year, it is notified of major changes in the tax system?

Taxpayers should also be able to expect tax authorities to treat them in a way that corresponds with the level of their responsibility when they fail to meet their tax obligations. Not every taxpayer who makes mistakes in their tax calculations does so intentionally, especially given the high complexity of tax law. Should they therefore be immediately regarded as a fraudster? Finally, since the tax relationship is a form of social contract between the state and the taxpayer, in which the latter transfers part of their assets in exchange for state-provided benefits, the taxpayer should be entitled to demand that the funds collected by the state are actually allocated for the common good. The state should therefore be accountable for how it has used funds collected from its citizens.

A complex ethical issue is how the tax burden should be distributed across society. On the one hand, it seems that taxes should be distributed in an equally burdensome manner between all citizens who contribute to the upkeep of the state. But

what does “equally burdensome” mean? Some might argue that it involves paying the same amount; others might point to paying the same percentage of income; while others will contend that progressive taxes best reflect an equal distribution of the tax burden. The latter view seems paradoxical, but is supported by the economic law of diminishing marginal utility.

A separate ethical consideration is whether it is in the interest of the common good to favour certain types of activities by imposing a milder tax burden on them. The rationale behind such a policy is that a subsidized activity may yield greater social benefits than would otherwise be achievable through taxes being levied on it.

While ethics can establish guidelines for the state’s response to certain legitimate expectations of taxpayers, not all of them can be addressed. In democratic systems, such problems can only be solved by a popular vote. An inherent characteristic of the decision of the majority is that someone from the minority will inevitably feel wronged by it, but some issues in a democratic society cannot be resolved in a way that pleases everyone. According to the doctrine of utilitarianism, another influential school in European ethics, the greatest possible happiness of the greatest number of people is the actual measure of good and evil (Bentham, 1948). This principle is embodied

in the electoral mechanism which ensures that the position adopted reflects the view of the majority. Unfortunately, this measure will not satisfy everyone, and history is full of instances where the majority imposed tyranny on the minority.

It could thus be argued that the majority’s freedom of choice should be confined within certain boundaries that must remain inviolate. For example, it would undoubtedly be objectively unethical for the majority to decide to impose close to 100% tax on a minority in order effectively to seize their property. In modern democracies, inviolable boundaries within which the majority can exercise its decisions are safeguarded by constitutions and binding international law.

The activity of Poland’s tax authorities

Is the state’s treatment of taxpayers in Poland aligned with ethical principles? To answer this question, let us examine how Poland’s tax office operates in relation to taxpayers’ legitimate expectations and rights. Regarding the clarity and precision of tax regulations, it should firstly be noted that Poland’s tax system was ranked 63rd out of 64 countries in the Tax Complexity Index (2022), which measured the least and most complicated tax systems in the world. According to a PwC (2024)

report, Poland is also the second-worst country in Europe when it comes to the number of hours that entrepreneurs must devote to tax-related formalities. In Poland, a typical entrepreneur needs an average of 334 hours for this purpose, compared with 218 hours in Germany.

It is not merely the complexity of Polish tax law that poses a challenge – it is also the reluctance of the tax authorities to offer guidance to taxpayers. For a long time, the tax authorities were reluctant to answer individual taxpayers' requests about whether some of their business activities could have been classified as research and development (R&D). They were finally forced to provide advice following the judgement of the Supreme Administrative Court (2021). Such conduct on the part of the tax authorities rendered the legislator's efforts to introduce R&D tax relief largely ineffective. On the one hand, the taxpayer was offered the opportunity to take advantage of the relief; on the other, there was no way to obtain binding confirmation that they were eligible. As a result, the taxpayer risked a potential tax audit that, would require them to pay outstanding levies with interest, and might even lead to tax-related criminal charges.

Is such behavior by the tax authorities toward the taxpayer ethical, where a particular tax relief is made available, but the taxpayer is denied the ability to make safe use of

it? It arguably looks like a trap set for the taxpayer. Would one allow such behavior in dealings between individuals?

A separate concern in Poland is whether taxpayers are afforded sufficient time to become acquainted with newly introduced tax changes. The Polish Deal, widely regarded as the most significant tax reform in recent years, serves as a telling example. It came into effect on 1 January 2022, even though the underpinning legislation was published in the Journal of Laws (2021) as late as 23 November 2021, giving taxpayers had just over a month to brace for the revolutionary changes. The most recent election campaign in Poland saw bold declarations about implementing a mandatory six-month *vacatio legis* (notice period) before any new tax laws would take effect. But unfortunately, the declarations did not materialize.

The latest revision of the Act on Local Taxes and Fees is a striking example. It introduces major changes to the real estate tax imposed on buildings and structures and was published in the Journal of Laws (2024) on 29 November 2024, barely one month before it came into effect on 1 January 2025.

How, then, can a taxpayer in Poland reasonably manage a business when each year might end with an unforeseen twist from the tax office? Where is the trust that underpins

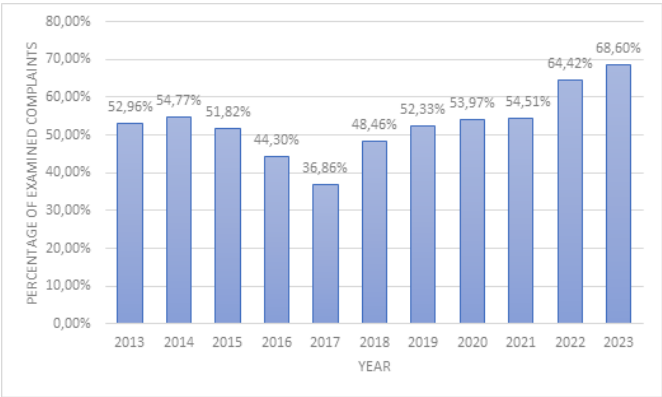
the very foundations of ethics? This report has outlined scenarios in which taxpayers attempt to fool the tax authorities using various artificial schemes. However, there are also instances where Poland's tax authorities attempt to outsmart the taxpayer, using similarly questionable tactics.

A prime example is the arbitrary initiation of fiscal proceedings under criminal law in tax-related cases. Under Poland's Tax Ordinance, the limitation period for a tax obligation is suspended when fiscal proceedings under criminal law are launched in a case concerning the non-fulfilment of that obligation. Yet sometimes, when the limitation period for a tax obligation is coming to a close, the tax authorities launch criminal fiscal proceedings on questionable grounds, with either no or negligible follow-up action. These proceedings

serve one purpose only: to prolong the window during which the tax authority can enforce collection. They are discontinued once that goal has been achieved, revealing that their sole function is to manipulate the status of limitation of the tax obligation. This practice was criticized in a resolution of Poland's Supreme Administrative Court (2021), but it has not ceased altogether. The question is therefore raised that if taxpayers are expected to steer clear of dubious tactics to mislead the tax office, is it not fair as well to demand that the state should play by the same rules?

To conclude this section, it is worth highlighting some disheartening statistics. Figure 1 shows the percentage of taxpayers' complaints examined by Voivodeship (Provincial) Administrative Courts and filed against individual interpretations of tax law issued by tax authori-

Figure 1: Percentage of complaints examined by Voivodeship (Provincial) Administrative Courts against individual interpretations of tax law over 2013-2023



Source: Writer's analysis of administrative courts data, 2013-2023

ties, broken down by years. Figure 2 shows, on the same year-by-year basis, the percentage of complaints that closed with the cancellation of tax authorities’ decisions by courts.

As these charts illustrate, a considerable share of court disputes with the tax authorities are decided in favour of the taxpayer, painting a troubling picture of how frequently in Poland state institutions disregard both ethical norms and the letter of the law. Can such treatment of the taxpayer be considered fair? Can the state claim the moral high ground in demanding that taxpayers meet their obligations, when it consistently fails to uphold its own corresponding responsibilities?

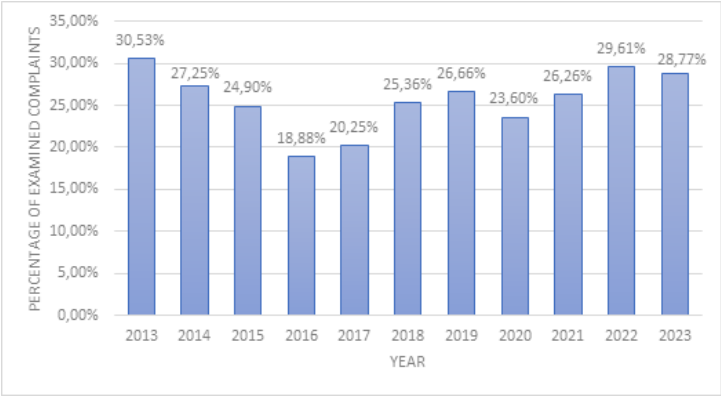
A vicious circle

The previous two sections exami-

ned examples of unethical behavior by both taxpayers and the state. It is worth reflecting on what drives this mutual outsmarting game and whether it has not become self-perpetuating. A fair question would be whether the complex nature of Poland’s tax law stems, at least in part, from the state’s efforts to stay one step ahead of “creative” taxpayers who exploit legal loopholes to avoid paying what they owe.

As taxpayers keep discovering new gaps in the system, new legislative fixes must be applied, thus rendering the law increasingly ca-suistic, wide-ranging, and intricate. But viewed from a different angle, it is worth considering whether the taxpayer’s desire to avoid taxation is a reaction to the state’s failure to uphold its own obligations toward them. Why should a taxpayer, wit-nessing the state’s leniency toward

Figure 2: Percentage of complaints examined by Voivodeship (Provincial) Administrative Courts against decisions by tax authorities



Source: Writer’s analysis of administrative courts data, 2013-2023

international corporations shifting profits to tax havens, while imposing relentless pressure on small taxpayers lost in the thicket of regulations, not be inclined to resist such an unequal policy? If the state treats the taxpayer as a dishonest fraudster from the outset, will that taxpayer not be tempted ultimately to assume this role, like a self-fulfilling prophecy? Will a taxpayer meet their tax obligations for the sake of the common good, while the state proves incapable of ensuring predictability or allowing adequate time to adapt to amended regulations?

These questions are, of course, rhetorical. In a climate of mutual distrust between the taxpayer and the state, where each side views the other as an adversary, there can only be a deepening spiral of unethical behavior by both sides.

Recommendations for tax authorities

In conclusion, the fact that the present situation in Poland is clearly unfavorable cannot be ignored. The absence of trust and cooperation between the taxpayer and the state generates losses on both sides, as well as to the country's economy. Any effort to build a better relationship must begin with the recognition that both parties to the tax relationship share equal responsibility for its creation.

Concerning the conduct of the state, the following proposals merit consideration:

1. *The interaction of tax authorities and taxpayers should be viewed through the lens of an interpersonal relationship:* To build a genuine relationship based on trust and collaboration, it is essential to go beyond demands and also respect the other party's legitimate rights and interests. It is not fair to operate under the assumption that every taxpayer attempts to deceive the system. It is important to keep in mind that the majority of taxpayers are not primarily driven by a desire to deceive. Although they may be prone to errors, their intentions are generally honest.

2. *Taxpayers have the right to expect the state to be predictable:* It is unacceptable for taxpayers to be given merely a month to prepare for sweeping changes to the tax system. Once advocated by certain political factions but discarded later on, the proposal of a six-month *vacatio legis* (notice period) for new tax legislation should be regarded as the bare minimum. Changes to tax law should be subject to extensive consultation, since the state must not lose sight of the fact that taxes are not levied for their own sake but to advance the common good.

3. *The state has every reason to protect itself from dishonest taxpayers, but should refrain from exploiting legal loopholes or resorting to unfair tactics*

to gain the upper hand: To encourage honest conduct by taxpayers, the state must also treat them fairly, as one would expect in any human relationship.

4. *Excessive casuistry and expanding tax regulations in reaction to every instance of aggressive tax optimization should cease:* Continuing in this manner means the legal system will become ever more convoluted, and while one abuse may be curbed through amendments, many well-intentioned taxpayers may be caught in the crossfire. Abusive practices should be addressed using tools already available in Poland's legal system. Such tools allow the state to pinpoint and tackle specific instances of tax avoidance, as is the case with the general anti-avoidance rule contained in Article 119 of the Act of 29 August 1997 – Tax Ordinance (1997).

5. *To encourage taxpayers' trust, the state should communicate its tax policy with full transparency:* Any taxes imposed should truly serve the common good and not be wasted or merely be taxation for its own sake.

Recommendations for citizens

Taxpayers must recognize that taxes are not a form of theft but a fair contribution to society and the common good, provided that they

are genuinely used for that purpose. This brings the state's role in the relationship back into focus.

If an individual enjoys the benefits guaranteed by the state, including security, the rule of law, healthcare, and education, then he or she must also accept their duty to contribute to the cost of providing these benefits. This principle applies even to someone who feels frustrated at having to pay taxes that fund services which they personally do not use. For instance, they may be healthy and no longer need access to education, but social solidarity means individuals share mutual responsibility for one another.

Most ethical perspectives affirm the value of one person helping the other, with the understanding that the roles may one day be reversed. A company that conducts business in a country reaps the benefits of its legal protection, and of local employees who have been educated in publicly funded schools. Under the same principle of solidarity, the company should repay that country through taxation instead of diverting its earnings to tax havens.

In practice, however, many companies lose sight of this obligation, driven primarily by the pursuit of greater profit. At this point, the role of stakeholders becomes crucial, as they are in a position to influence such businesses in an era when ethical environmental, social and

governance (ESG) investing is gaining increasing traction across markets. When an individual chooses to acquire stock, it is worth considering whether the company contributes to his or her country by paying its fair share of taxes.

In this regard, the latest changes to Poland's Accounting Act, as well as the obligation for companies to disclose their tax strategies, can equip investors with key information. Shareholders determine the behavior of large enterprises, so it is important for investors to understand that, as members of the broader community, they play a part in companies making fiscal contributions. There is also scope for the state and a wide range of non-governmental organizations (NGOs) to engage in education campaigns aimed at promoting ethical investment habits across society.

This paper concludes with the hope that the two parties in the tax relationship will act more ethically in future than is currently the case. The total eradication of abuse is a utopian ideal that will never fully materialize. The point, however, is to bring the reality closer to deserving moral approval than at present. The first move, acting as an incentive, must come from the state, because it is expected to uphold elevated ethical standards. But ultimately, the state is a community of citizens. In this sense, initiating a shift in state policy is a shared responsibility for every taxpayer. All it takes is a measure of awareness and collective action.

References

- Act of 29 August 1997 – Tax Ordinance (1997), *Journal of Laws* (2025), 111
- Bentham, J. (1948), *A Fragment on Government*. Oxford: Basil Blackwell
- Filipczyk, H. (2015), “Why is tax avoidance (im)moral? Ethics, metaethics and taxes,” *Toruński Rocznik Podatkowy*, 2015, 28-48
- Journal of Laws (2021). Retrieved from: <https://isap.sejm.gov.pl/isap.nsf/DocDetails.xsp?id=WDU20210002105>
- Journal of Laws (2024). Retrieved from: <https://isap.sejm.gov.pl/isap.nsf/DocDetails.xsp?id=WDU20240001757>
- Judgement of the Supreme Administrative Court (2021), II FSK 1049/21

Judgement of the Supreme Administrative Court (2022), II FSK 2508/19

Judgement of the Constitutional Tribunal (2003), file ref. K 53/02

Polish Language Dictionary (2025). Retrieved from: <https://sjp.pl/obywatel>

Kant, I. (1953), *Uzasadnienie metafizyki moralności*. Warszawa; PWN, transl. M. Wartneberg

PwC (2024), “Podatki pod lupą: jak odnaleźć się w labiryncie skomplikowanych przepisów podatkowych?”. Retrieved

from: <https://www.pwc.pl/pl/pdf-nf/2024/Raport-podatki-pod-lupa-2024.pdf>

Resolution of the Supreme Administrative Court (2021), I FPS 1/21, ONSAi-WSA 2021, vol. 5, item 69

Tax Complexity Index (2022). Retrieved from: <https://www.taxcomplexity.org/>

The Holy Bible: New Revised Standard Version, Catholic Edition (1989), Bible Gateway

Bibliography

Arystoteles (2003), *Polityka*, [in:] *Dzieła wszystkie, t. I*, Warszawa, transl. L. Piotrowicz

Flis, M. (2021), “Podatki w Biblii. Co mieszkańcy starożytnej Palestyny powiedzieliby o współczesnym polskim podatku dochodowym”. Retrieved from: <https://isp-modzelewski.pl/wp-content/uploads/2021/11/Podatki-w-Biblii.pdf>

Informacje o działalności sądów administracyjnych w latach 2013-2023 (submitted to the Sejm by the President of the Supreme Administrative Court)

Litwińczuk, H. (2020). *Międzynarodowe prawo podatkowe*. Warszawa: Wolters Kluwer.

Małecki P, Mazurkiewicz M. (2024), *CIT. Komentarz. Podatki i rachunkowość*. Warszawa: Wolters Kluwer.

Podstawka, M. et al. (2017). *Finanse. Instytucje, instrumenty, podmioty, rynki, regulacje*, Warszawa: PWN

Tatarkiewicz, W. (1995). *Historia Filozofii*. Warszawa: PWN.