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ACT ON THE SUCCESSION MANAGEMENT
OF A NATURAL PERSON: AS AN EXAMPLE
OF A LEGAL REGULATION MODIFYING THE SYSTEM
OF PRIVATE AND PUBLIC LAW

INTRODUCTION

Over 2.3 million enterprises in Poland are privately owned, of which 828 thousand enterprises operating in Poland are family ones. Most family enterprises are run in the form of natural persons (70.5%). The above means that the share of Polish family enterprises in the total number of enterprises does not differ from other European countries, such as Germany, France, Portugal or Ireland¹. Unfortunately, one of the basic challenges facing family businesses is the issue of generational succession. Research shows that as many as 70% of family enterprises do not pass into the hands of the next generation².

There was no regulation in the Polish legal system regarding the continuation of economic activity after the entrepreneur's death. Of course, there were some possibilities, but with a whole range of problems. For example, it is possible for the legal successors of the deceased entrepreneur to resume business, which requires not only the settlement of succession matters, but also registration of activities, as well as most often acquiring clients again and obtaining permits and consents of public administration bodies. A similar situation applies

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¹ Raport Grand Thornton “Rodzinny biznes na Giełdzie”, <http://www.dlahandlu.pl/hurt-i-fran czyza/wiadomosci/zdecydowana-wiekszosc-przedsiębiorstw-w-polsce-to-firmyrodzinne,67814.html> [accessed: 20.10.2019].

² Uzasadnienie Rządowego projektu ustawy o zarządzie sukcesyjnym przedsiębiorstwem osoby fizycznej, s. 4. Druk nr 2293 z dnia 22 lutego 2018. <http://www.sejm.gov.pl/Sejm8.nsf/druk.xsp?nr =2293> [accessed: 20.10.2019].

to running joint business in the form of civil law partnerships. Individuals who are entrepreneurs can transform their business into a different legal form, i.e. a commercial law company, however in the case of transfer of profits to private property, there is a double taxation – limited liability company pays tax on the income received, and then the individual pays tax on the dividend paid³.

In practice, the above meant that with the death of an entrepreneur, the legal existence of his enterprise was de facto over. There was a whole range of problems related to both private law and public law. These include, the lack of a specific person authorized to run business matters, the expiration of employment contracts made by the entrepreneur, the expiration of administrative decisions (e.g. concessions, licenses or permits), the obligation to reimburse public support or difficulties in accessing a bank account and making payments from the invoice⁴. In addition, the practice indicated that the duration of the procedures related to the confirmation of the inheritance acquisition and its distribution, especially in the situation of difficulties in finding heirs, conducting inheritance proceedings or disputes between successors, significantly hindered, and often prevented the continuation of business operations.

The illustrated scale of the problems justified taking actions aimed at introducing legislative changes that would facilitate the continuation of the natural person's business after his death, in the period between the opening of the inheritance and its division⁵.

And in fact, the situation changed with the adoption of the Act of July 5, 2018 on the management of the enterprises succession of a natural person and other facilities related to the succession of enterprises⁶, which regulates the principles of temporary management of the enterprise and continuation of economic activity after the death of the entrepreneur. The Act (with some exceptions⁷) has been in force since November 25, 2018.

The idea that guided the legislator when introducing the institution of the succession board to the Polish legal order was the concern for the fate of one-man

³ Uzasadnienie Rządowego projektu ustawy o zarządzie sukcesyjnym przedsiębiorstwem osoby fizycznej, s. 6 i nast. Druk nr 2293 z dnia 22 lutego 2018. <http://www.sejm.gov.pl/Sejm8.nsf/druk.xsp?nr=2293> [accessed: 20.10.2019].

⁴ K. MAJ, *Czynności notarialne związane z ustawą o zarządzie sukcesyjnym przedsiębiorstwem osoby fizycznej*, "Krakowski Przegląd Notarialny" 2018, No. 2, p. 51.

⁵ Uzasadnienie Rządowego projektu ustawy o zarządzie sukcesyjnym przedsiębiorstwem osoby fizycznej, s. 8. Druk nr 2293 z dnia 22 lutego 2018. <http://www.sejm.gov.pl/Sejm8.nsf/druk.xsp?nr=2293> [accessed: 20.10.2019].

⁶ Ustawa z dnia 5 lipca 2018 r. o zarządzie sukcesyjnym przedsiębiorstwem osoby fizycznej i innych ułatwieniach związanych z sukcesją przedsiębiorstw, Dz.U. 2019, poz. 1495 [hereinafter: u.z.s.].

⁷ Art. 30 wszedł w życie z dniem 25 lutego 2019 r.; art. 122 – z dniem 1 października 2018 r.

businesses after the death of their managers⁸, protection of the rights of legal successors of the entrepreneur, as well as protection of the rights of third parties that are related with the enterprise (i.e. employees or contractors)⁹.

1. THE ESSENCE OF THE SUCCESSION BOARD

The succession board of a natural person enterprise is a new institution in Polish inheritance law. Although, it should not be forgotten that the current regulations regarding the management of the enterprise after the death of the entrepreneur were retained in force – because the provisions of the Civil Code¹⁰ determining the probable fall titles for the acquisition of the enterprise (statutory inheritance, testamentary inheritance, vindication record or the possibility of appointing a will) are still in force. It is still possible to MapPoint the executor by the testator¹¹.

Under the discussed act, the legislator does not define the concept of succession management. However, by regulating art. 18 Act of 5 July 2018. about the succession management of a natural person's enterprise and other facilities related to the succession of enterprises, indicates that “the succession board includes the obligation to run the business inheritance and the authority to judicial and extrajudicial activities related to running the business inheritance”¹². It can therefore be assumed that the succession management is the management of the enterprise inheritance, i.e. after the death of the entrepreneur, which is to allow for continuation of his business – management, which is mainly aimed at avoiding problems related to maintaining the position of the enterprise on the market (but not lead to its development, because this should already be the task of the new buyer of the enterprise). As follows from the above, the key meaning of the concept in art. 18 Act on the succession management is an

⁸ P. PACEK, *Wykonawca testamentu a zarząd sukcesyjny przedsiębiorstwem osoby fizycznej – wybrane zagadnienia*, “Rejent” 2019, No. 6, p. 59.

⁹ D. CELIŃSKI, *Stosowanie w praktyce notarialnej przepisów ustawy o zarządzie sukcesyjnym przedsiębiorstwem osoby fizycznej (uwagi polemiczne do artykułu Krzysztofa Maja “Czynności notarialne związane z ustawą o zarządzie sukcesyjnym przedsiębiorstwem osoby fizycznej”)*, “Krakowski Przegląd Notarialny” 2018, No. 3, p. 195.

¹⁰ Ustawa z dnia 23 kwietnia 1964r. – Kodeks cywilny, t.j. Dz.U. 2019, poz. 1145, 1495.

¹¹ M. PAZDAN, *Zarządca sukcesyjny a wykonawca testamentu*, [in:] *Ius est ars boni et aequi. Księga pamiątkowa dedykowana profesorowi Józefowi Frąckowiakowi*, eds. A. Dańko-Roesler, M. Leśniak, M. Skory, B. Sołtys, Wrocław: Stowarzyszenie Notariuszy Rzeczypospolitej Polskiej 2018, p. 885

¹² M. SIERADZKA, *Zarząd sukcesyjny przedsiębiorstwem osoby fizycznej – analiza i ocena nowych rozwiązań prawnych (cz. II)*, “Monitor Prawniczy” 2018, No. 23, p. 1242.

“enterprise inheritance”. In accordance with art. 2 clause 1 Act on the succession management, the Act includes intangible and tangible components intended for the performance of business activities by the entrepreneur, being the property of the entrepreneur at the time of his death. Supplement to the above definition is included in by the legislator in para. 3 art. 2 of the Act on the succession management, indicating that the company inheritance also includes intangible and tangible assets that are intended for the pursuit of economic activities, acquired by the successor administrator in the conditions described in this provision¹³.

To establish a succession board, it is necessary to perform three actions in the order required by law. First of all, to establish a succession board, it is necessary to appoint a successor manager, i.e. a specific person. Secondly, it is required to obtain written consent from such a person to perform this function of a succession administrator. The third condition also specifies the moment of establishment of the succession board, indicating that it is the moment of entering the succession administrator in CRAIOB (CEIDG)¹⁴. The successor manager can only be a natural person with full legal capacity who – in accordance with the above – agreed to perform this function¹⁵.

The Act on Succession Management is the answer to many practical problems related to the death of an entrepreneur and the fate of his enterprise. However, the regulation of this act has some disadvantages. The succession management board is a temporary solution that ensures that at a critical moment after the entrepreneur’s death there is a person – or they can be quickly established – who will deal with the most important matters related to the functioning of business activities, including, among others, the implementation of deliveries, customer service or tax settlements¹⁶. The temporary nature of the institution of succession management means that the legal successors of the enterprise are not released from the obligation to determine further directions of enterprise development¹⁷.

¹³ M. PAZDAN, *Zarządca sukcesyjny*, p. 886.

¹⁴ Art. 6 ust. 1 u.z.s.

¹⁵ K. MAJ, *Czynności notarialne*, p. 52.

¹⁶ J. BIELUK, *Ustawa o zarządzie sukcesyjnym przedsiębiorstwem osoby fizycznej. Komentarz*, Warszawa: C.H. Beck 2019, p. XI.

¹⁷ P. BLAJER, *Zarząd sukcesyjny przedsiębiorstwem osoby fizycznej. Pytania i odpowiedzi. Wzory pism. Przepisy*, Warszawa: Wolters Kluwer 2019, p. 29.

2. SELECTED CHANGES IN PRIVATE LAW INSTRUMENTS INTRODUCED BY THE ACT ON SUCCESSION MANAGEMENT

The Polish legislator noted that it is not enough to introduce just another institution of inheritance law regulating the issue of a natural person's business continuation after his death, but he recognized that the achievement of goals requires a broader and more comprehensive approach, starting from civil law, through labor law, to public law regulations, it is administrative and tax¹⁸. Solutions, only in the field of civil law, would be far from sufficient without administrative and legal regulations (which would allow the continuation of operations based on concessions or permits granted to the heir), as well as tax ones (allowing the continuity of the taxpayer's existence)¹⁹. Having regard to the above, the legislator, through regulation of the succession management law introduced into the Polish legal order, amended over 65 acts, which were listed in chapter twelve of the subject act²⁰. Due to the limited framework of this publication, only a few of the amended normative acts will be signaled, as the purpose of the publication is not to analyze and comment on all changes, but to show the ongoing process of mutual penetration and intertwining of public and private law provisions.

At the level of private law, the Act on the succession management, the legislator modified, among others, the Civil Code, the Act of 26 June 1974 – Labor Code²¹, the Act of 28 July 1983 on inheritance and donation tax²², the Act of 14 February 1991 – Notary Law²³, Act of 20 April 2004 on employee pension programs²⁴, Act of 6 March 2018 on Central Business Register and Information on Business and Information Point for the Entrepreneur²⁵, Act of 20 April 2004 on employment promotion and labor market institutions²⁶, Act of 6 March 2018 – Entrepreneurs' law²⁷. Changes were also made on the basis of procedural private

¹⁸ S. BABIARZ, *Następstwo prawne spadkobierców i zapisobierców zwykłych w prawie podatkowym*, Warszawa: LexisNexis Polska 2013, p. 302.

¹⁹ *Prawa i obowiązki następców prawnych w prawie podatkowym*, Warszawa: LexisNexis 2001, p. 191.

²⁰ W art. od 61 do art. 124.

²¹ T.j. Dz.U. 2019, poz. 1040 z późn. zm.

²² T.j. Dz.U. 2019, poz. 1813.

²³ T.j. Dz.U. 2019, poz. 540 z późn. zm.

²⁴ T.j. Dz.U. 2019, poz. 850.

²⁵ T.j. Dz.U. 2019, poz. 1291 z późn. zm.

²⁶ T.j. Dz.U. 2019, poz. 1482 z późn. zm. [hereinafter: u.p.z.].

²⁷ T.j. Dz.U. 2019, poz. 1292, 1495 [hereinafter: u.p.p.].

law, and they relate mainly to the Act of 17 November 1964 – Code of Civil Procedure²⁸ and the Act of 28 July 2005 on court costs in civil matters²⁹.

One of the above of the amended normative acts is the Civil Code, although these changes are not numerous, as they relate to proxies and partial distribution of inheritance³⁰. In the scope of proxy, it was pointed out that “the entrepreneur’s loss of legal capacity does not cause the termination of proxies”³¹, which is a significant change in comparison to the previous regulation, which provided that the death of the entrepreneur or his loss of legal capacity did not result in the termination of the proxies. It is clear from the above that the death of the entrepreneur does not entail the expiry of the proxies. In addition, to art. 1038 of the Civil Code, § 3 was added, which aims to clarify that the reason justifying a partial division of the heritage should be considered as the fact that it includes an enterprise, and this is to enable the continued operation of the enterprise.

In turn, in the Act on employment promotion and labor market institutions it was indicated³² that the removal from the Central Register and Information on Business (hereinafter: CEIDG) does not take place automatically upon the death of the entrepreneur, therefore it is possible to continue the activity of the deceased entrepreneur by the successor manager as part of a business inheritance.

However, in the Act on Entrepreneurs’ Law it was added that if during the period of suspension the entrepreneur died, then the period of suspension lasts until the establishment of the succession board³³. As soon as the succession board is established, the suspension of economic activity ceases. As another activity that an entrepreneur can do despite suspending business operations is the appointment or dismissal of a succession manager³⁴.

Due to the fact that the Act on the succession management provides for the possibility of initiating and conducting non-litigious proceedings before a court in certain cases, there was a need to set fees for them. Therefore, it was indicated in the Act on court costs in civil matters that a flat fee of PLN 300 is charged for the application for dismissal of the succession administrator and for the extension of the succession board period (for a maximum of 5 years)³⁵.

²⁸ T.j. Dz.U. 2019, poz. 1460 z późn. zm.

²⁹ T.j. Dz.U. 2019, poz. 785 z późn. zm. [hereinafter: u.k.s.s.c.].

³⁰ Only about the changes introduced by the Act on the succession management.

³¹ Art. 109⁷ § 4 u.z.s.

³² Art. 18m ust. 1 pkt 10 u.p.z.

³³ Art. 24 ust. 2 u.p.p.

³⁴ Art. 25 ust. 2 pkt 8 u.p.p.

³⁵ Art. 67b ust. 1 u.k.s.s.c.

3. SELECTED CHANGES IN THE ACTS OF PUBLIC LAW INTRODUCED BY THE ACT ON THE SUCCESSION MANAGEMENT

Turning to public law, it should be noted that the changes introduced by the Act on succession management concern tax law and proceedings, among others: the Act of 26 July 1991 on personal income tax³⁶, the Act of 15 February 1992 on legal person income tax³⁷, the Act of September 29, 1994 on accounting³⁸, the Act of August 29, 1997 – Tax Code³⁹, the Act of March 11, 2004 on tax on goods and services⁴⁰, the Act of December 6, 2008 on excise duty⁴¹, the Act of 13 October 1995 on the principles of recording and identifying taxpayers and payers⁴². Modifications also appeared in The Act of September 13, 1996 on maintaining cleanliness and order in parishes⁴³, the Act of 10 April 1997 – Energy Law⁴⁴, the Act of 20 June 1997. – Road traffic law⁴⁵, the Act of August 22, 1997. on the protection of persons and property⁴⁶, Act of June 7, 2001 on collective water supply and collective sewage disposal⁴⁷, the Act of September 6, 2001 on road transport⁴⁸, the Act of March 28, 2003 on rail transport⁴⁹, the Act of July 16, 2004 – Telecommunications Law⁵⁰, the Act of January 5, 2011. on drivers of vehicles⁵¹, the Act of 19 August 2011 on the transport of dangerous goods⁵², the Act of 23 November 2012. – Postal law⁵³, Act of 9 June 2011. – Geological and mining law⁵⁴. Changes in public procedural law were inevitable, and even crucial, and they affected in particular the Act of 17 June 1966 on

³⁶ T.j. Dz.U. 2019, poz. 1387 z późn. zm.

³⁷ T.j. Dz.U. 2019, poz. 865 z późn. zm.

³⁸ T.j. Dz.U. 2019, poz. 351 z późn. zm.

³⁹ T.j. Dz.U. 2019, poz. 900 z późn. zm.

⁴⁰ T.j. Dz.U. 2018, poz. 2174 z późn. zm.

⁴¹ T.j. Dz.U. 2019, poz. 864 z późn. zm.

⁴² T.j. Dz.U. 2019, poz. 63 z późn. zm. Abbreviations used: the Act on the principles of records and identification of taxpayers and payers.

⁴³ T.j. Dz.U. 2019, poz. 2010 z późn. zm.

⁴⁴ T.j. Dz.U. 2019, poz. 755 z późn. zm.

⁴⁵ T.j. Dz.U. 2018, poz. 1990 z późn. zm.

⁴⁶ T.j. Dz.U. 2018, poz. 2142 z późn. zm.

⁴⁷ T.j. Dz.U. 2019, poz. 1437 z późn. zm.

⁴⁸ T.j. Dz.U. 2019, poz. 2140 z późn. zm.

⁴⁹ T.j. Dz.U. 2019, poz. 710 z późn. zm.

⁵⁰ T.j. Dz.U. 2018, poz. 1954 z późn. zm.

⁵¹ Dz.U. 2019, poz. 341 z późn. zm.

⁵² T.j. Dz.U. 2019, poz. 382 z późn. zm.

⁵³ T.j. Dz.U. 2018, poz. 2188 z późn. zm.

⁵⁴ T.j. Dz.U. 2019, poz. 868 z późn. zm. Abbreviations used: geological and mining law, Geological and mining law.

administrative enforcement proceedings⁵⁵, the Act of 14 June 1960. – Code of Administrative Procedure⁵⁶, Act of August 30, 2002. – Law on proceedings before administrative courts⁵⁷.

The changes made by the Act on succession management in the Act on the principles of recording and identifying taxpayers and payers are important in practice. According to the current legal status, the Tax Identification Number (hereinafter: NIP) assigned to the taxpayer did not pass to the legal successor with some exceptions⁵⁸. However, if the taxpayer dies or ceases to legal existence, the issued TIN expired. Currently added paragraph 1b to art. 12 Act on the principles of recording and identifying taxpayers and payers, indicating that the TIN assigned to the entrepreneur passes to the enterprise inheritance. It should be noted that the legislator in the content of the above provision does not indicate the successor administrator, but the company in inheritance, which does not change the fact that if the successor administrator was established during the lifetime of the entrepreneur, then after his death he will be able to use the TIN of the deceased because he will performed the rights and obligations of the taxpayer and payer⁵⁹. The TIN expires only with the expiry of the succession board, and if the succession board has not been established – with the expiry of the right to appoint a successor manager. The adopted solutions ensure continuation of settlements in the scope of all taxes related to conducting business activity, especially VAT and VAT-EU. In addition, they facilitate use from the Scheduling Registration and Monitoring System for Assistance in matters related to public assistance and de minimis assistance. In a situation where the succession board is not established, the inherited enterprise may use the entrepreneur's TIN until the deadline for establishing a succession board, if the person⁶⁰ performing

⁵⁵ T.j. Dz.U. 2019, poz.1438 z późn. zm.

⁵⁶ I.e. Journal of Laws from 2018, item 2096, as amended. Abbreviations used: code of administrative procedure, cap.

⁵⁷ I.e. Journal of Laws of 2018, item 1302, as amended. Abbreviations used: law on proceedings before administrative courts, p.p.a.

⁵⁸ Except for the following situations:

- transformation of a state enterprise into a sole shareholder company of the State Treasury or a municipal enterprise into a sole proprietorship of the commune,
- transformation of a civil law partnership into a commercial company or a commercial company into another commercial company,
- transformation of an ordinary association into an association. (Article 12 principles of records and identification of taxpayers and payers).

⁵⁹ P. BLAJER, *Zarząd sukcesyjny*, p. 130.

⁶⁰ A spouse who is entitled to a share in the enterprise, a legal heir, an entrepreneur's will or testamentary legatee.

conservative activities⁶¹ (referred to in Article 14 of the Succession Management Board bill) continues to run the enterprise and will report this fact to the head of the Tax Office (Article 12 paragraph 1c Act on the principles of recording and identifying taxpayers and payers)⁶². It is worth adding that due to the changes, during the succession board, the successor has the obligation to update the data covered by the update application.

The continuation of the business activity covered by the concession after the entrepreneur's death was ensured by the amendment to the Geological and Mining Law made by the Succession Management Act. In the amended art. 38 section 1 Geological and mining law, the death of an entrepreneur who is a natural person was removed as the reason for the expiry of the concession, and section 4 was also changed, assuming that the concession expires in the event of liquidation of an entrepreneur who is also a natural person. The above change made it possible to continue the activity covered by the concession after the entrepreneur's death, due to the fact that the concession has not expired as an administrative decision issued for the entrepreneur.

In pursuance of the regulation of the act on succession management, the succession administrator acts on his own behalf, on behalf of the owner of the enterprise inheritance⁶³. Since the establishment of the succession board, the succession manager exercises the rights and obligations of the deceased entrepreneur resulting from his business activities and the rights and obligations arising from running the enterprises in inheritance⁶⁴. The consequence of the above regulation is the participation of the successor administrator in administrative and administrative court proceedings in matters related to the business of the enterprise⁶⁵.

When referring to administrative proceedings, it should be noted that the succession administrator is a party to proceedings instituted after the death of the entrepreneur if they relate to the inherited enterprise. However, regarding proceedings pending at the time of the entrepreneur's death, according to the new meaning of Art. 30 § 4a, sentence 1 of the Code of Administrative Procedure, they replace the party in the event of its death in the course of proceedings, if the cases relate to transferable or hereditary rights arising from the party's business. Therefore, the succession administrator has the rights of a party to the proceedings.

⁶¹ That is, the actions necessary to preserve the assets or the possibility of running the business in inheritance.

⁶² J. BIELUK, *Ustawa o zarządzie sukcesyjnym*, p. 228.

⁶³ Art. 21 ust. 1 u.z.s.

⁶⁴ Art. 29 ust. 1 u.z.s.

⁶⁵ J. BIELUK, *Ustawa o zarządzie sukcesyjnym*, p. 162.

In the event of the expiry of the succession board, the proceedings succeeded by the successor administrator will be replaced by the legal successors of the deceased⁶⁶. In addition, the Code of Administrative Procedure was modified in terms of the conditions for suspension of proceedings, expanding their catalog, as point 1 of Art. 97 § 1 of the Code of Administrative Procedure has changed, in which a premise of suspension of proceedings, the inability to participate in the succession administrator's case. Point 3a has also been added to the above provision. According to its wording, the premise for suspension of proceedings is the expiry of the succession board, if the circumstances indicated in art. 30 § 5 of the Code of Administrative Procedure (i.e. in matters of inheritance not included as parties, there are persons in charge of the estate, and in their absence – a guardian appointed by the court at the request of the public admission body) and the proceedings are not discontinued as groundless⁶⁷.

When considering changes in the area of administrative court proceedings, it is worth referring to the provisions of the Act on proceedings before administrative courts. First of all, the changes relate to the obligatory suspension of proceedings by introducing that the termination of the function of the successor administrator suspends proceedings *ex officio*. This procedure may be resumed when a new successor administrator is appointed or the legal successors of the deceased come forward. In addition, the successor administrator or legal successors of the deceased have one year since the suspension of the proceedings, to report to the proceedings, and if they do not, the court should request the court of succession to appoint a probation officer *ex officio*, unless such a probation officer has already been appointed⁶⁸.

CONCLUSIONS

Based on the above considerations, it can be assumed that the succession board of an enterprise of a natural person is the legal institution that weaves private and public law into a properly functioning whole. The succession board is an institution in which, when considering private law elements, it is necessary to take into account its public law aspects. Public and private law are not separated, they interpenetrate and complement each other, overlap and

⁶⁶ Art. 30 § 4a zd. 2 k.p.a.

⁶⁷ Art. 105 k.p.a.; J. BIELUK, *Ustawa o zarządzie sukcesyjnym*, p. 162 n.

⁶⁸ Art. 128 p.p.s.a.

there is no clear boundary between them⁶⁹. It is worth bearing in mind that currently proper synchronization of private and public law is a fundamental premise for all social and economic development.

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Raport Grand Thornton "Rodzinny biznes na Giełdzie".

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Act of 10 April 1997. – Energy Law, i.e. Journal of Laws of 2019, item 755 as amended.

Act of 20 June 1997. – Road traffic law, i.e. Journal of Laws from 2018, item 1990 as amended.

⁶⁹ R. GODLEWSKI, H. KISIŁOWSKA, *Przenikanie się prawa administracyjnego i prawa cywilnego na przykładzie gospodarki nieruchomościami i prawa budowlanego*, [in:] *Wypieranie prawa administracyjnego przez prawo cywilne*, vol. III, eds. A. Doliwa, S. Prutis, Warszawa: Lex a Wolters Kluwer business 2012, p. 43.

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ACT ON THE SUCCESSION MANAGEMENT
OF A NATURAL PERSON: AS AN EXAMPLE
OF A LEGAL REGULATION MODIFYING
THE SYSTEM OF PRIVATE AND PUBLIC LAW

Summary

The purpose of this publication is to present selected changes introduced to the Polish legal order by the Act on the succession management of an enterprise of a natural person, which is a response to many practical problems related to the death of an entrepreneur and the fate of his enterprise. However, the Polish legislator noted that it was not enough to introduce just another institution of inheritance law, in the form of succession management, board, but decided that achieving goals requires a broader approach, starting from civil law, through labor law, to public law regulations, i.e. administrative and tax regulations. Therefore, it is important to present selected changes in the scope of private and public law regulations in connection with the introduction of the Act. The complexity of regulated issues is demonstrated by the long list of amended legal acts.

Key words: succession management; enterprise; inheritance

USTAWA O ZARZĄDZIE SUKCESYJNYM PRZEDSIĘBIORSTWEM OSOBY FIZYCZNEJ
JAKO PRZYKŁAD REGULACJI PRAWNEJ ZMIENIAJĄCEJ
SYSTEM PRAWA PRYWATNEGO I PUBLICZNEGO

Streszczenie

Celem niniejszej publikacji jest przedstawienie wybranych zmian wprowadzonych do polskiego porządku prawnego przez ustawę o zarządzie sukcesyjnym przedsiębiorstwem osoby fizycznej. Ustawa jest odpowiedzią na wiele praktycznych problemów związanych ze śmiercią przedsiębiorcy i losami jego przedsiębiorstwa. Polski ustawodawca zauważył jednak, że nie wystarczy wprowadzić jedynie kolejnej instytucji prawa spadkowego w postaci zarządu sukcesyjnego, ale uznał, że osiągnięcie celów wymaga szerszego podejścia, poczynając od prawa cywilnego, poprzez prawo pracy, aż po regulacje publicznoprawne, tj. przepisy administracyjne i podatkowe. Dlatego też istotne jest przedstawienie wybranych zmian w zakresie regulacji prywatnoprawnych i publicznoprawnych w związku z wprowadzeniem ustawy. O złożoności regulowanej problematyki świadczy długa lista znowelizowanych aktów prawnych.

Słowa kluczowe: zarząd sukcesyjny; przedsiębiorstwo; dziedziczenie