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**Advance Tax Ruling in the domestic and international
dimensions**

THESIS OF PHD DISSERTATION

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1. Summary of the research task; the importance of the topic and its fundamental theoretical questions

At In the beginning of May 2011, I started to work at the Ministry for National Economic. During my work at the Ministry, there was a tax procedure, of which I haven't had the knowledge from my experience at National Tax and Customs Administration. This Procedure was the Advance Tax Ruling (ATR). However, The ATR is a unique procedure in a way, during this process the first instance is The Ministry for National Economic. I have tried to find scientific works in connection with ATR, but the Hungarian scientific life has not processed it yet. Although, this topic is researched in the international aspects.

My ministry experience and my scientific interest encouraged me to research Advance Tax Ruling in the domestic and international dimensions. I would like to thank my supervisor's, Dr. habil. Anna Halustyik's support.

At the commencement of my research, I have received a question whether the taxpayer could have paid fewer taxes during the process of Advance Tax Ruling. I have noted this as a sign present as this is an unexplored procedure. One explanation for the misunderstanding of the procedure might be the misleading Hungarian translation of its name, as we call it Provisional Tax Assessment, however according to the process the taxpayer has to pay same tax liabilities as in another tax assessment. Advance Tax Ruling does not have any tax allowance or tax relief, but Advance Tax Ruling ensure the legal certainty to a concrete transaction in the taxation aspects. Unfortunately, the procedure of the expression is not appropriately named in English, as well (Advance Tax Ruling / Binding Ruling).

My research of the ATR has been focused according to the following hypotheses:

- 1. The phases of the historical development of the tax assessment lead the self-assessment which is the consequence of introduction of the Advance Tax Ruling.**
- 2. Advance Tax Ruling is a tool to fulfil the burden sharing.**
- 3. Advance Tax Ruling is a special administrative proceeding or an interpretative act.**
- 4. Advance Tax Ruling is a special procedure among the tax assessments. It's a domestic development of the Advance Tax Ruling from 2012**
 - adjusts to Hungarian pretention and**
 - exceeds the international trends.**
- 5. Advance Tax Ruling is a tool for legal certainty by a future investment, and so it promotes the investments.**

- 6. Advance Tax Ruling is a tax amnesty without the enforcement of the principle about the rights within their meaning and intent.**
- 7. It is not necessary to ensure the right of remedy during the Advance Tax Ruling.**
- 8. Not only is the final Advance Tax Ruling applicable.**

In my PhD dissertation, I have been analysing the Advance Tax Ruling in domestic and international dimension and I have tried to support my hypotheses by the analysis. I have classified the countries according to the different regulations of the Advance Tax Ruling.

During the research, I have been taking some de lege ferenda proposals to achieve more accurate, more taxpayer-friendly Hungarian regulation.

Based on all these, there are five central assessments in the focus of my research:

- (i) The relationship between Advance Tax Ruling and the self-assessment. (Note: self-assessment has been replaced the tax assessment by the tax authority.)
- (ii) The obligation from the Fundamental Law of Hungary is the burden sharing which is easily fulfilled by the ATR.
- (iii) Advance Tax Ruling is a one of the administrative procedures.
- (iv) Advance Tax Ruling is one type of the tax administrations (tax assessment).
- (v) Advance Tax Ruling ensures legal certainty in taxation for a future investment.

In my PhD dissertation, I am presenting the aims and results, in both domestic and international dimensions, of my research in the field of ATR. The presentation of this theme is outlined by the chapters of my dissertation, according to the following:

- Chapter 1 presents broadly the evolution of the tax assessment and the Advance Tax Ruling, as it is not avoidable to explore the roots and the legal history of the Advance Tax Ruling.
- In Chapter 2, I have been analysing the constitutional regulation of the burden sharing in different countries. The focus point of this chapter is whether the Advance Tax Ruling could be a tool for the fulfilment of the burden sharing, or not.
- Chapter 3 places the Advance Tax Ruling into the administrative procedures. I have been examining the general regulation of the administrative procedure law in

domestic and international dimensions. This is a priority section of my dissertation, as the part of the ATR in the legal system has been assessed here. Also, the separation of ATR from interpretative acts is being presented in this chapter, as well.

- Afterwards, the place of ATR in the administrative procedures has been defined. And then, the place of ATR has been taken into the tax administration and tax assessments. Chapter 4 declares the results of my research.

The focus point of the first four chapters is to place the Advance Tax Ruling into the legal system in international respect. Based on all these, I have been presenting the general regulation of the Advance Tax Ruling in these chapters.

- In chapter 5, I have been analysing the aims of introduction of the ATR. The analysis has been focused on the legal certainty and the investment promoting with the outlook of the internal experiences.
- I have been examining the procedure of the Advance Tax Ruling from the perspective of the enforcement of the principle about the rights within their meaning and intent in the Chapter 6. It is a priority question that we use such tax provision which is related to the nature of the future transaction, because this transaction is the base of the Advance Tax Ruling, and the goal of the transaction could not be tax avoidance and tax evasion.
- The right of remedy has to enforce in the Advance Tax Ruling which domestic and international regulation I analyse in the Chapter 7.
- The focus point of the Advance Tax Ruling is the application, binding force and res judicata in the Chapter 8. The questions are how could be apply the Advance Tax Ruling and when relate to it the binding force and res judicata.

After these four chapters, I present a multi-coloured picture about the domestic and international regulation of the Advance Tax Ruling.

Summing up, I could establish or reject my hypotheses according to my general (replacing in the legal system) and particular (each elements of the procedure) results of my research about the Advance Tax Ruling. According to this dissertation I try to take some de lege ferenda proposal for an EU Directive and 12 concrete suggestions to Hungarian legislator.

2. The methodology applied during research

For my research, I have chosen the methodology of the comparative law¹. I have utilized Csaba Varga's definition of the comparative law: The comparative law looks for "such special spirituality, which operates the legal system with same efficiency in different legal institution, techniques and services".² This methodology gives an opportunity to "compare our legal culture with another legal culture."³

According to József Petrétai's research "the comparative law was not created nowadays because it has a rich historical development. (...) We could talk about the comparative law from the end of XIX century, when the researchers not only compared the different legal solutions, but they also created a theory, an ideology as well as a system. The first 'Gold-days' of this discipline could be at the beginning of the XX century when the aim of the comparative law was the legal unification, the creation of the unified world-law. The development of the comparative law could not be separated from the international relationship and cooperation among each country. Plusher historical events had effects to the comparative law, first of all, the world wars and its conclusions; (second of all) the change of the international relationship; (third of all) the political-ideological cooperation and opposition of each country; (also the) export; (besides that there is the) freedom of movement of the money, capital, persons, goods and other asses or its deficits; cultural, religious and national differences."⁴

In the methodology of the comparative law I have analysed the Advance Tax Ruling, and after that I have been dealing with the domestic and international analysis⁵. In this sense, I have attempted to present the Advance Tax Ruling as a legal instrument. In addition to that, the

¹ Marciano, Davide (2008): Gondolatok a jog összehasonlító tanulmányozásáról. Európai jog, 2008. (8. évf.) 6. sz. p. 23-30.

² Varga Csaba (2000): Jogi kultúrák – összehasonlító megvilágításban. In: Varga Csaba (szerk.): Összehasonlító jogi kultúrák. Osiris Kiadó. Budapest. p. XVII.

³ Varga Csaba (2000): Jogi kultúrák – összehasonlító megvilágításban. In: Varga Csaba (szerk.): Összehasonlító jogi kultúrák. Osiris Kiadó. Budapest. p. IX.

⁴ Petrétai József (2004): Jog-összehasonlítás és összehasonlító alkotmányjog. Jura, 2004. (10. évf.) 2. sz. p. 107-114.

⁵ Varga Csaba (2002): A jog mint folyamat. Szent István Társulat. Budapest. p. 403-404.

researched have been defined by me according to the elements of the Advance Tax Ruling which are the base of my proposal for an EU Directive in the respect of the legal harmonisation⁶.

The comparative law⁷ stimulates to classify legal regulation of each country. „The base of the classification could be different, for example, historical development, historical root, ideologies from the background, working instruments and technics.”⁸ This method of the classification has been used by the definition of the result of my research, and there have been a classification of the same and the different regulation of the Advance Tax Ruling, also.

I have to mention here, the examination is always focusing on another legal culture through the Hungarian (our) legal culture during the application of the comparative law. Thus, the 'culture of dependency'⁹ has to be defined in my research.

My aim of choosing the comparative law was that, the domestic regulation could be replaced by the Advance Tax Ruling into the different kinds of international regulations. Besides that, my goal has been to give a description of the possible developing trends and to highlight that there is room for manoeuvre of the legislator, which can get wider in benefit of the legislator.

Also, I have strengthened that the main element of regulation is the creative human factor in each country, and this phenomena can be applied to the ATR, as well.

In Chapter 3, the results of my research are shown by the help of the methodology of the comparative law.

⁶ Kecskés László: EK-jog és jogharmonizáció. Közgazdasági és Jogi Könyvkiadó, Budapest 1999. p. 103–104.

⁷ Visegrády Antal (2007): Összehasonlító jog globális kontextusban. Jogtudományi közlöny, 2007. (62. évf.) 6. sz. p. 291-293.

⁸ Varga Csaba (2000): Jogi kultúrák – összehasonlító megvilágításban. In: Varga Csaba (szerk.): Összehasonlító jogi kultúrák. Osiris Kiadó. Budapest. p. X.

⁹ Varga Csaba (2002): Előadások a jogi gondolkodás paradigmáiról. Szent István Társulat. Budapest. p. 148-152.

3. Research findings (results)

This Chapter summarizes the results of my research of the Advance Tax Ruling in the domestic and international dimensions according to my hypotheses. After that, I have taken a proposal for an EU Directive of Advance Tax Ruling and for the Hungarian legislator.

3.1. Result according to the hypotheses

In my PhD dissertation, there is a resume of my research of the Advance Tax Ruling in the domestic and international dimensions, and my results according to the following 8 hypotheses have been certified.

The hypothesis 1

The hypothesis 1 is the phases of the historical development of the tax assessment which leads the self-assessment. This is the consequence of the introduction of the Advance Tax Ruling.

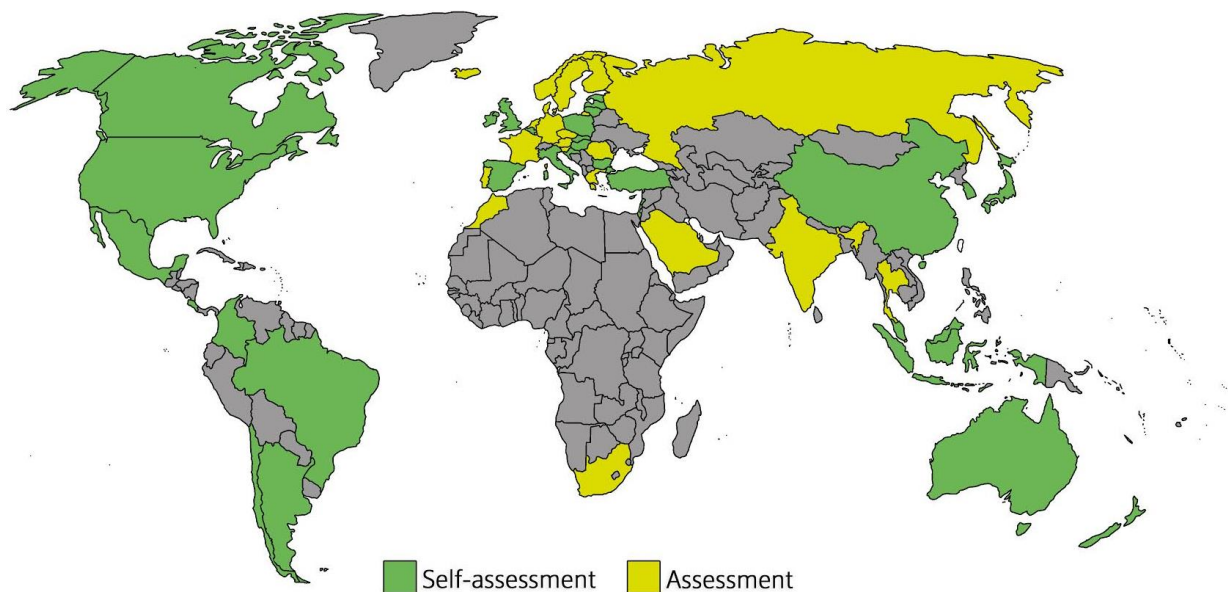
The following phases of development of the tax assessment have been separated in favour of the certificate of the first part of the hypothesis.

1. phase: the tax assessment in the Prehistoric and Ancient Times adjusts the income of the state in particular, and the base of the tax assessment and tax payment is a proportion of the produced goods and the expected revenue;
2. phase: in the Middle Ages, the king had royalty income from the royal estate, but the wars needed more and more money so the king had to turn to the nobles in the Parliament for new taxes and soldiers. The nobles had the right to nominate the taxes, but however the nobles were exemption of taxation;
3. phase: it was a big change, when the king set up a tax authority which is loyal only to the king. In this situation, the nobility is no longer necessary to the king by nomination the taxes. It is one of the main characteristic of the absolutisms. The tax authority is a tool of the king to collect taxes without the nobility and the

Parliament. In this period, the tax authority assesses the tax, and the taxpayer are obliged to pay it.

4. phase: Nowadays, the democratic state changed the roles in taxation. In principle, the tax authority collects the taxes, and also it controls the taxation. Besides that, the taxpayer not only pays the tax, but also assesses, and returns it. The self-tax assessment is an umbrella term, and its parts: tax assessment, tax return and tax payment.

The self-assessment and the tax assessment by the tax authority with outlook of the world



Source: Own edited.

Identification and assessments of the tax liabilities are not easy for a taxpayer in case of the self-assessment. In this situation, the Advance Tax Ruling¹⁰ is a tool for the taxpayer to reduce his tax burden in a transaction.

¹⁰ Vanas, Herta (2011): Introduction of an Advance Ruling in Austria. Taxand. Vienna.

The hypothesis 2

According to the hypothesis 2, Advance Tax Ruling is a tool for that is used to fulfil the burden sharing.

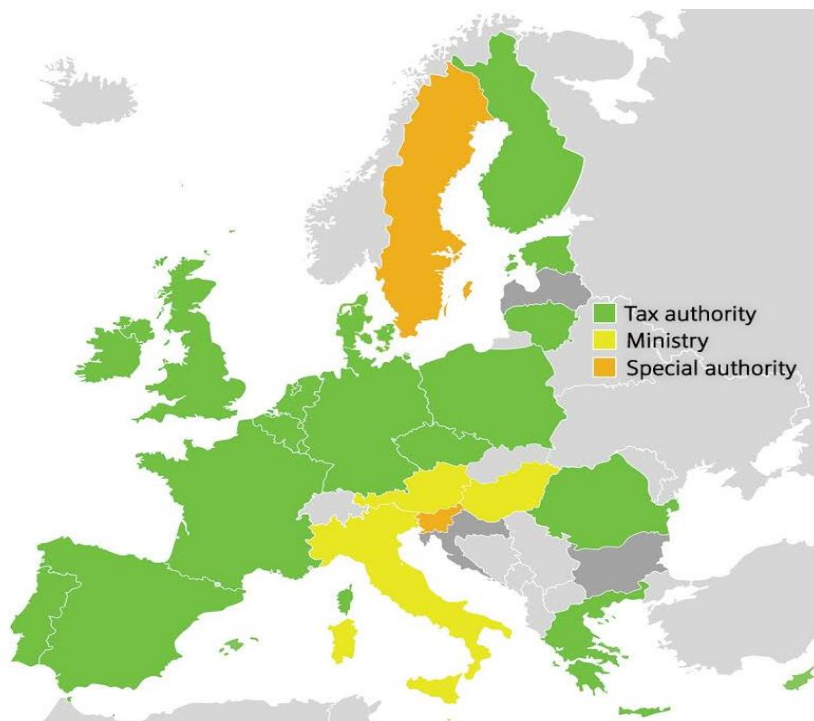
The Constitution in Hungary and in other's countries contain of provisions about burden sharing in several forms. In my research, it is clear that burden sharing in a simplified way means that everybody has to take a part in the common burden.

Advance Tax Ruling is a legal instrument which could promote the fulfilment of the burden sharing for a future transaction. So, the tax liabilities are easily feasible for taxpayers by the Advance Tax Ruling. It is a drawable conclusion that everybody has to take part in the common burden, so the Advance Tax Ruling (as a legal instrument for promoting burden sharing) has to be available for everybody.

The hypothesis 3

The content of the hypothesis 3 deals with the Advance Tax Ruling as a special administrative procedure or an interpretative act.

The authority by the Advance Tax Ruling in the member states of the European Union



Source: Own edited.

According to my research, some provisions of the general administration procedure is applicable in the Advance Tax Ruling, these provisions are the following: principles, client, authority, jurisdiction, scope, competency, first instance, and also, the decision in particular.

The authority that issues the ATR could be different in the following ways:

The authority could be

- the tax authority or
- the ministry of finance or
- other independent bodies.

The regulation of the Advance Tax Ruling has a wide variety in Europe but it is unified and transparent in America – in particular, the Unites States of America.

In Europe, me and also researchers ahead of me have proposed the harmonization of the regulation of the Advance Tax Ruling which could mitigate the distorting effects of the procedural differences.

On the figure above, we could see that in several countries the tax authority issues the Advance Tax Ruling. We can mention the following countries here: the United Kingdom, Portugal, Spain, France, Belgium, Luxemburg, Germany, Poland, Slovakia, Czech Republic, Romania and Greece). These countries are having coloured as green on the figure. The ministry of finance issues the Advance tax Ruling in Italy, Austria and Hungary. These countries are coloured as yellow on the above figure. In Sweden, Council Advance tax Ruling issues the Advance tax Ruling. ATR is issued by its Council in Sweden. In Malta, Commissioner of Inland Revenue issues the Advance tax Ruling. These countries are having the colour orange on the figure.

According to my research about the Advance Tax Ruling in the domestic and international research, I (have) certified that the Advance tax Ruling is a special administrative proceeding and an interpretative act.

The hypothesis 4

The hypothesis 4 says that Advance Tax Ruling is a special procedure among the tax assessments. Its domestic development from 2012

- adjusts to Hungarian pretention and
- exceeds the international trends.

According to my research, Advance Tax Ruling has a few characteristics that are different than the other tax assessment, but these tax assessments also have some similarities.

The obligated, the method and the form of the tax assessment

The obligated of the tax assessment	The method of the tax assessment	The form of the tax assessment
Taxpayer	Self-assessment	Tax return
Employer, payer	Tax withholding	
Obligated for collection of tax	Tax collection	
Tax authority	Tax by levy	Administrative decision
	Official tax assessment on the basis of tax return	
	Posteriori Tax Assessment	
Minister in charge of taxation	Advance Tax Ruling	

Source: Own edited.

- During the *self-assessment* the taxpayer has to explore the tax liabilities, besides that he also has to fulfil it and pay the taxes. The Advance Tax Ruling could be a legal instrument to promote the tax liabilities in case of a concrete transaction. The self-assessment is a significant burden for a taxpayer. In this case, the taxation is an obligation for everybody.
- The taxpayer's obligation of the tax assessment is replaced to the payer or the employers because of *the withholding of the payers and the employers and the tax assessment of the employers*. In this case the payer, the employer and the taxpayers can utilize the

opportunity of submitting an Advance Tax Ruling. So the possibility is available for every people in the construction.

- The procedure of the *tax collection* is a left-over from the Middle Age. In the tax collection, the legislator defines a person who has to explore, assess and collect the taxes despite of the taxpayer. In the Advance Tax Ruling, nobody could occupy the place of the taxpayer, so the tax collector does not have the option of submitting the Advance Tax Ruling.
- The common characteristic of the official tax assessment and the ATR is that, there is an authority that assess the tax, thus the taxpayer has no longer have tax assessment and identification as a burden.

Based on all these, it can be stated that the Advance Tax Ruling is a special procedure among the tax assessments.

The development of the ATR and the Hungarian regulation has been separated in 4 phases. From 2012, there has been a significant alteration. The Hungarian Advance Tax Ruling amended and supplemented according to the Hungarian pretention which has been certified by the following new instruments:

- Extended Advance Tax Ruling,
- Advance Tax Ruling in urgent procedure,
- Cooperation with the tax authority during the Advance Tax Ruling,
- Advance Tax Ruling has an assessment only for the applicant.
- Obligation to provide an official certification about the research and development activity
- Transaction not recognised as an anticipated future transaction
- Extension of legal force of the Advance Tax Ruling.

The international trends¹¹ appears in the Hungarian regulation from 2012. These trends are the following: simplification (fee, deadline), remedy, personal consultation and extension of legal force of the Advance Tax Ruling.

The hypothesis 5

The content of the hypothesis 5 summarizes that the Advance Tax Ruling is a tool for legal certainty by a future investment, and so it promotes the investments.

Here, I have chosen to use legal certainty instead of legal stability. Legal stability is an important part of the Rule of Law; however, on the other hand, legal certainty is principle for the people by the law enforcement. So, the adequate expression that should be applied to this topic is the legal ceratinty.

Furthermore, the Advance Tax Ruling is expected to increase the cooperation between the taxpayers and the tax authority and prevent the dispute of the legal interpretation as early as possible through this legal instrument.

The question is that, whether the Advance Tax Ruling could be *a promoting tool for investment*. We promoted the investment by tax allowance in Hungary between 1990-1995; it was a hard tool for the investment promotion. But the budget needs more revenue, and the soft tools for the investment have been both examined and changed. In this processing, we don't give tax allowance, but we cover a good environment for the future investment. After that, The Advance Tax Ruling was introduced in Hungary at 1th January 1996. According to the Minister's reasoning the aim of this legal instrument is investment promoting. This aim appears not only in Hungary but in several countries, such as: Canada, India, Malaysia, Spain, Peru and Taiwan.

After that the Advance Tax Ruling is not a 'hard instrument' of increasing directly the investment activity. Rather, it is a 'soft instrument' which could contribute to creating favourable investment environment through calculatable tax liabilities. The Advance Tax Ruling assists to fulfil the tax liabilities.

¹¹ Alarie, Benjamin – Datt, Kalmen – Sawyer, Adrian – Weeks, Greg (2014): Advance Tax Rulings in Perspective: A Theoretical and Comparative Analysis. New Zealand Journal of taxation Law and Policy. 2014 December Volume 20.

The hypothesis 6

The hypothesis 6 deals with: Advance Tax Ruling that is a tax amnesty without the enforcement of the principle about the rights within their meaning and intent.

At first, I have been presented the results of my survey about the principle of the rights within their meaning and intent and its origin from the Ancient Greek documents to the Gustav Radbruch. This principle appears in the legal theory and in the acts about of the civil law. After that, the relationship between the principle and the prohibition of the abuse of rights have been describe. This principle has an important role in the labour law, so a short outlook of these provisions have been introduced. Later, I presented the enforcement of this principle in the tax administration law. However, Laszlo Hadi's, Istvan Simon's and my opinion about the role of this principle conflicts in this study. According to my opinion this principle could be an effective tool for fighting against the tax evasion, for example in the advance tax ruling.

The hypothesis 7

The content of the hypothesis 7 states that it is not necessary to ensure the right of remedy during the Advance Tax Ruling.

According to my research, each country apply different system for ensuring the right of remedy.

- *Only administrative way is open* during the Advance Tax Ruling in Argentina, Belgium, Estonia, Guatemala and Hungary (between 1996-2003). In this case, the same authority makes decision above the application and the remedy too, and these conditions are not enough guaranties according to my opinion.
- *Only the judicial way is open* during the Advance Tax Ruling in Finland, Germany, Sweden, Malta, Granada, Mexico and Hungary (from 2014). The advantage of this system is the separation between the administrative and the judicial procedure. I am certain that it is an important grantee for a taxpayer to a real remedy.
- *The administrative and the judicial ways are open* during the Advance Tax Ruling in Dania, Egypt, Columbia, Republic of Dominic and Kuwait. This remedy system is the most efficient, successful, taxpayer-friendly.

- *Remedy may not be submitted in Malaysia, Australia, Nicaragua and Taiwan.* In these countries in one hand, nobody could submit a remedy, but on the other hand everybody could submit an application for an Advance Tax Ruling again and again.

Opportunity of remedy in the Advance Tax Ruling around the world

	Only administrative way	Only the judicial way	The administrative and the judicial ways	Remedy may not be submitted
Europe	Belgium	Germany	Dania	
	Estonia	Sweden	Finland	
	Hungary (1996-2013)	Hungary (2014-től)	Malta	
America	Argentina	Granada	Brasilia	Nicaragua
	Guatemala	Mexico	Canada, Manitoba	
		Bolivia	Canada, Ontario	
		USA, Idaho	Canada, Québec	
			Columbia	
			Republic of Dominic	
Asia			Kuwait	Malaysia
				Taiwan
Africa			Egypt	
Australia				Australia

Source: Own edited.

Based on all these, the hypothesis is certified, as it is not necessary to ensure the right of remedy during the Advance Tax Ruling, although an important condition is that the Advance Tax Ruling could submit again.

The hypothesis 8

Hypothesis 8 is not the final Advance Tax Ruling applicable.

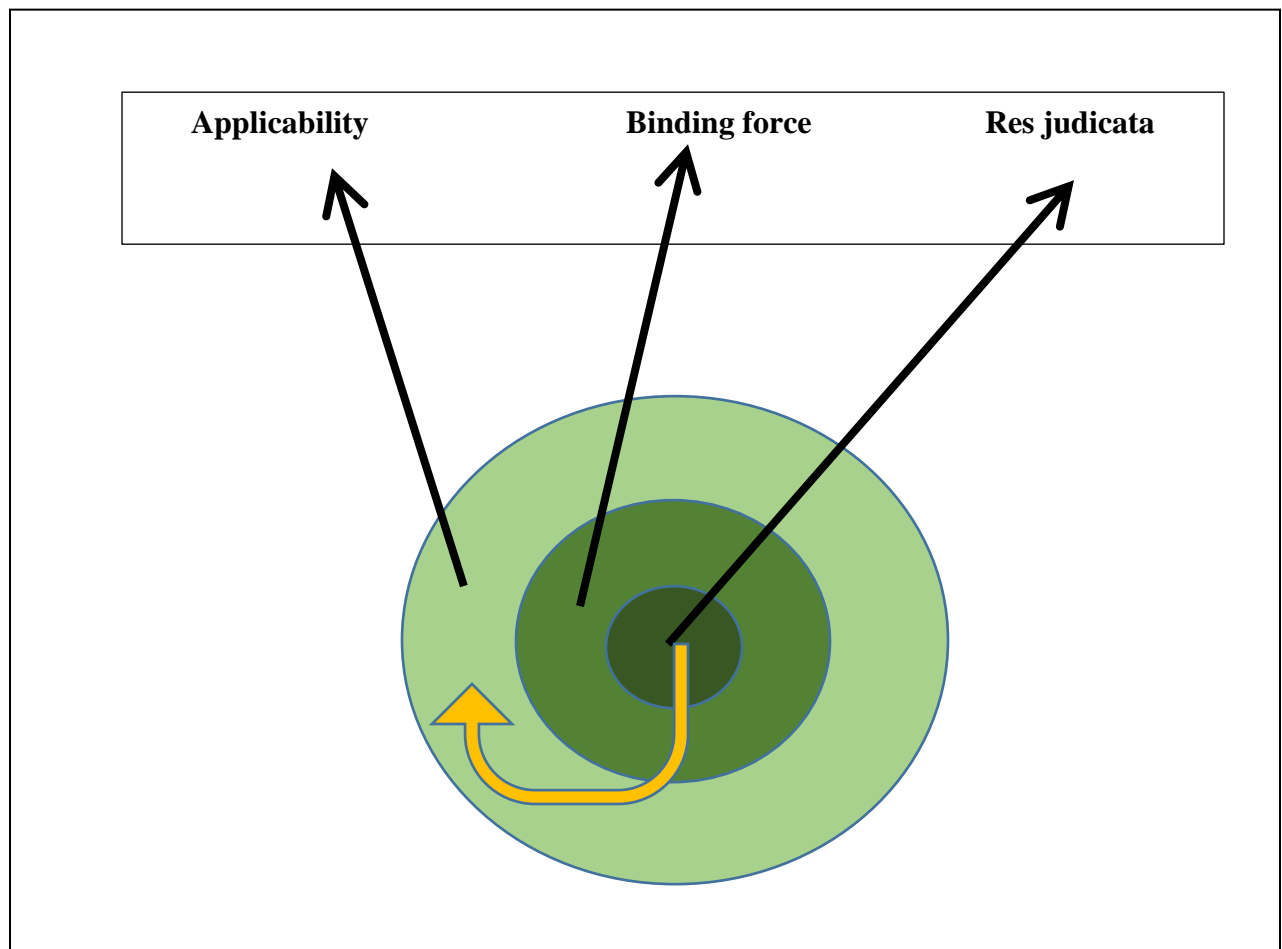
So it can be used for all the legal provision that we apply. But advance tax ruling gives more guarantees to the transaction, because the interpretation of the tax provision to the transaction in the advance tax ruling binds the tax authority. Also, the tax authority could not be applied to any

other different provisions by the transaction than the interpretation in the Advance Tax Ruling. However, the binding is a strong guarantee by the Advance Tax Ruling.

The Advance Tax Ruling shall be binding on the tax authority only for the case in question and under unaltered conditions.¹² In the event of any future changes in the legislation concerned with Advance Tax Ruling, or such changes taking effect, Advance Tax Ruling cannot be applied.

According to my research, every country apply the binding force in the regulation of the Advance Tax Ruling.

Circulation of the applicability, binding force and res judicata



Source: Own edited.

¹² Van de Velde, Elly (2015): Tax Rulings in the EU Member States. Study for the ECON Committee. Brussels. European Union.

Besides that, the issued Advance Tax Ruling binds the tax authority to follow its commitments until it is accepted. The binding force of the Advance Tax Ruling is used by all countries. In generally, the binding force is applicable from the submission of application of Advance Tax Ruling. In Spain, the request of the Advance Tax Ruling is binding on the tax authorities and their criteria must be compulsorily applied to taxpayers in similar cases provided the regulations existing at the time of issuance and applicable case law remains unchanged.

However, in practice, the tax authorities may change from time to time their criteria on newly issued tax rulings but such changes will not have retroactive effects on taxpayers.¹³

The binding force concerns only for the authority and not the taxpayer. The tax payer has the opportunity to use and apply it, but he cannot ignore it in practise.

Res judicata does not merely prevent future judgments from contradicting earlier ones, however, it prevents litigants from multiplying judgments, and confusion.

It applies for the advance tax ruling, too, which is a typical administrative decision, for example in Hungary.

When a taxpayer applies the advance tax ruling, it is very important that

- it has binding force and
- it will be res judicata.

The figure above shows that these three conditions must meet, if the tax payer would apply the advance tax ruling with biding force and res judicata.

The tax payer could practice according to his own opinion without Advance tax ruling. (It is the largest, brightest green circle.)

After the submission of the application of Advance Tax Ruling, there is the binding force related to the transaction. (It is the middle green circle.)

¹³ Alarie, Benjamin – Datt, Kalmen – Sawyer, Adrian – Weeks, Greg (2014): Advance Tax Rulings in Perspective: A Theoretical and Comparative Analysis. New Zealand Journal of taxation Law and Policy. 2014 December Volume 20.

There are a small number of economic transactions from all which are affected with final Advance tax ruling. (It is the smallest dark green circle.)

3.2. Proposal for an EU Directive in the Advance Tax Ruling

According to my opinion, it would be a competitive advantage for the European Union,¹⁴ if the regulation of the Advance Tax Ruling had an its. The Advance Tax Ruling has some common characters,¹⁵ which have been presented in my research. These characters are the same among the member states of the European Union.¹⁶

1. The principles are the following: legality, good faith, electronic communication, the enforcement of the principle about the rights within their meaning and intent.
2. Jurisdiction – every member state issues the Advance Tax Ruling according to their tax regulation.
3. Application – uniform definition of the formal requirement (for example future transaction), ensuring the opportunity for personal consultation.
4. Advance Tax Ruling is publicly available and binding for the tax authority.
5. Right of remedy is ensured for the Advance Tax Ruling.

The regulation of the Advance Tax Ruling could appear in a legal norm for example in a directive form, and the member states of the European Union have opportunity to complete the directive with own regulations.

¹⁴ Romano, Carlo (2002): Advance Tax Rulings and Principles of Law: Towards a European Tax Rulings System? IBFD.

¹⁵ Van de Velde, Elly (2015): Tax Rulings in the EU Member States. Study for the ECON Committee. Brussels. European Union.

¹⁶ Vanas, Herta (2011): Introduction of an Advance Ruling in Austria. Taxand. Vienna.

3.3. De lege ferenda proposals for Hungarian legislator

According to the research of the Advance Tax Ruling in domestic and international dimensions, I have been taken the following de lege ferenda proposals.

1. Advance Tax Ruling is submitted only by tax consultant, tax expert, lawyer and auditor.

Proposal:In case of representation of international aspect, different requirements can be distinguished. In my opinion, the regulation of representation of Advance Tax Ruling could be replaced.

2. Advance Tax Ruling is submitted only with fulfilment of the payment.

Proposal:If Advance Tax Ruling was free; it would be an opportunity for taxpayer's easy fulfilment of the tax obligation according to the burden sharing.

3. It is a principle that the taxpayer has the opinion of choosing from the communication forms (postal, economic). In Hungary, Advance Tax Ruling is submitted only postal.

Proposal:It would be beneficial for Hungary to adopt an electronic system for Advance Tax Ruling.

4. The resident taxpayer would have the option of submitting the Advance Tax Ruling; on the other hand, a non-resident taxpayer could submit it only by a resident taxpayer.

Proposal:According to my viewpoint, a natural person has tax obligation in Hungary, so he could submit the Advance Tax Ruling regardless of his residency.

5. The task of the minister in charge of taxation is to issue the Advance Tax Ruling.

Proposal:The tax authority issues the Advance Tax Ruling, as in the most country of the world.

6. The aim of the personal consultation is to take an opportunity for a taxpayer to show the draft of the Advance Tax Ruling.

Proposal: From my point of view, countries that introduced the Advance Tax Ruling should be force to apply the personal consultation, as well.

7. The Hungarian authorities don't follow the transaction which has relationship with an Advance Tax Ruling.

Proposal: My standpoint on this issue is that, it is very important to follow the investment which has relationship with an Advance Tax Ruling, for example by a special tax control.

8. The ministry degree of the Advance Tax Ruling did not amend from 1 May 2010.

Proposal: It would be expedient if it amended to the regulation of the Act on the Rules of Taxation.

9. All fact, data, circumstances of the Advance Tax Ruling is tax secret, and it is available only for the applicant.

Proposal: In my opinion, so that the Advance Tax Ruling could appear on the webpage without prejudice to the trade secrets. It could increase the transparent of the tax administration.

10. The regulation of the Advance Tax Ruling has only a short provision about the enforcement of the principle in case of the rights within their meaning and intent.

Proposal: I recommend that the principle of the rights within their meaning and intent enforces in the whole procedure of the Advance Tax Ruling.

11. Only the judicial way is open during the Advance Tax Ruling in Hungary.

Proposal: It could be a better opportunity for the enforcing of rights of taxpayers, if during the Advance Tax Ruling the administrative and judicial way could be open by the remedy.

12. The regulation does not have special provisions about the application, binding force and res judicata.

Proposal: I recommend that the ministry issue a guide about the procedure of the Advance Tax Ruling.

4. The Author's Publication¹⁷

Dr Erdős Éva, Dr Halustyik Anna, Dr Szabó Ildikó (2016): Tax Avoidance Legislation in Hungary. pp. 1-18.

Mizsányi Attila, Dr Szabó Ildikó (2016): Tovább fejlődik az online pénztárgép rendszere. ADÓ: A PÉNZÜGYI KORMÁNYZAT LAPJA 2016/6. szám. pp. 27-32.

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¹⁷ The publications in the theme of the PhD dissertation are **Bolt** (sum 15).

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5. 4. The Author's conference lectures¹⁸

Number	Date of the conference	Conference venue	The title of the author's conference lecture	The title of conference	Organizer of the conference
19.	2016. április 27.	Budapest	Az online pénztárgép használat kiterjesztése és az ehhez kapcsolódó kötelezettségek	Nemzeti Adó- és Vámhivatal Országos Operatív Szakmai Értekezlet	Nemzeti Adó- és Vámhivatal
18.	2016. április 21.	Miskolc	Advance Tax Ruling	MultiScience - XXX. microCAD Nemzetközi Multidiszciplináris Tudományos Konferencia	Miskolci Egyetem
17.	2016. április 16.	Budapest	A feltételes adómegállapítás hazai és nemzetközi szabályozása	Tavaszi Szél 2016	Doktoranduszok Országos Szövetsége - Óbudai Egyetem
16.	2016. április 14.	Budapest	Az online pénztárgép használat kiterjesztése és az ehhez kapcsolódó kötelezettségek	Az online pénztárgép szabályozás változása	SOLON Oktatási és Konferencia központ

¹⁸ The conference lectures in the theme of the PhD dissertation are **Bolt** (sum 10).

15.	2016. január 21.	Budapest	Adózás rendje	Adózáshoz kapcsolódó jogi szabályozás változása	Magyar Könyvvizsgálói Kamara Oktatási Központ
14.	2015. december 11.	Budapest	Rendeltetésszerű joggyakorlás elve rövid kitekintéssel a feltételes adómegállapításra	Szimposium "Keresztény erkölcs és jogász etika" - miként érvényesül az etika a jogban? "In memoriam Zlinszky János"	Pázmány Péter Katolikus Egyetem Jog- és Államtudományi Kar Doktori Iskola
13.	2015. szeptember 4.	Budapest	Jogrendszerek közötti verseny a feltételes adómegállapítás jogintézményére vonatkozó szabályozás tekintetében	Jogrendszerek közötti verseny	Pázmány Péter Katolikus Egyetem Jog- és Államtudományi Kar
12.	2015. július 3.	Miskolc	A feltételes adómegállapítás mint a jogbiztonság egyik eszköze	"Via scientiae iuris" Nemzetközi Doktorandusz Konferencia	Miskolci Egyetem
11.	2014. december 12.	Győr	Jogerő, alkalmazhatóság kérdése a feltételes adómegállapítás keretében	A jogtudomány sajátossága	Széchenyi István Egyetem Deák Ferenc Állam- és Jogtudományi Kar Állam- és

					Jogtudományi Doktori Iskola
10.	2014. december 3.	Budapest	Az adózás rendjéről szóló törvény változásai	Adókonferencia 2015	Mazars Kft és Magyar Könyvvizsgálói Kamara Oktatási Központ Kft.
9.	2014. november 20.	Miskolc	A jogorvoslathoz való jog szabályozása a feltételes adómegállapítás keretében	Doktoranduszok Fóruma	Miskolci Egyetem
8.	2014. október 31	Budapest	A feltételes adómegállapítás jogintézménye és annak célja	A haza szolgálatában	Nemzeti Köszolgálati Egyetem
7.	2014. október 17.	Budapest	Advance Tax Ruling in some European Union member countries	3rd Comparative Law Workshop - Comparative Law and EU Law	Pázmány Péter Katolikus Egyetem Jog- és Államtudományi Kar
6.	2014. június 25.	Szeged	A feltételes adómegállapítás, mint a közteherviselési kötelezettség teljesítését elősegítő jogintézmény	Alapelvek és alapjogok	Szegedi Tudományegyetem Állam- és Jogtudományi Kar

5.	2014. március 21.	Debrecen	A feltételes adómegállapítás magyar szabályozása	Tavaszi Szél 2014	Doktoranduszok Országos Szövetsége - Debreceni Egyetem
4.	2013. december 19.	Budapest	Adók módjára behajtható köztartozások a környezetvédelem területén	Környezetvédelem és jog	Pázmány Péter Katolikus Egyetem Jog- és Államtudományi Kar Doktori Iskola
3.	2012. november 30.	Budapest	Az adózás rendjének változásai	Adóváltozások 2013	HVG Szemináriumok és Konferenciák
2.	2012. január 10	Budapest	Az adózás rendjéről szóló törvény változásai 2012-ben	Adóváltozások	Magyar Vállalkozók Országos Szövetsége
1.	2011. december 10.	Székesfehérvár	Adó- és járulékváltozások 2012	Adóegyetem	Penta Unió