

LEGAL REGULATION OF TAX ADVISORY SERVICES IN RELATION TO THEIR QUALITY**Pravna ureditev davčnega svetovanja v povezavi s kakovostjo izvajanja storitev****Stanko Čokelc***Revidicom Audit Company Ltd
revidicom@siol.net***Jan Žan Oplotnik***University of Maribor, Faculty of Economics and Business
zan.oplotnik@uni-mb.si***Abstract**

This article analyzes the suitability of the legal regulation of tax advisory services in relation to their quality based on our comparative analysis of the (non)regulation of tax advisory services in selected EU states, our analysis of the existing regulatory framework in Slovenia, as well as stakeholders' opinions. We use the results of all three analyses to propose an optimal model of regulation of the profession and the level of regulation, centred on the need to ensure quality services for clients, service providers, the state, and society as a whole. The key finding is that greater regulation would improve the quality of tax advisory services, which is important not only for clients of services, but also the public interest as it increases confidence in tax returns and financial statements prepared by tax advisors, which in turn improves the economy and mitigates operative risks.

Keywords: tax, tax advisory services, regulated professions, quality of services

Povzetek

V prispevku je analizirana primernost pravne ureditve davčnega svetovanja kot dejavnika kakovosti izvajanja storitev davčnega svetovanja in temelji na primerjalni analizi (de)reguliranosti poklica v izbranih državah EU, analizi obstoječe ureditve v Sloveniji ter pridobljenih mnenjih deležnikov davčno-svetovalne dejavnosti. Iz rezultatov vseh treh analiz je izpeljan predlog optimalnega modela ureditve tega poklica in stopnje reguliranosti dejavnosti, v jedru katerega je funkcija kakovosti izvajanja storitev davčnega svetovanja tako za uporabnike in izvajalce storitev kot tudi za državo in družbo kot celoto. Ključna ugotovitev napotuje na trditev, da je z večjo stopnjo regulacije mogoče zagotoviti tudi večjo kakovost izvajanja storitev davčnega svetovanja, kar pa ni pomembno samo za naročnike, ampak dosega tudi dimenzije t. i. javnega interesa, saj povečuje zaupanje v davčne obračune in računovodske izkaze, pri katerih je sodeloval davčni svetovalec, s tem pa se izboljšuje tudi ekonomsko okolje gospodarstva in znižujejo tveganja za poslovanje.

Ključne besede: Davki, davčno svetovanje, regulirani poklici, kakovost storitev

1 Introduction

At the EU level, significant convergence can be noted in the area of tax advisory services and professions involved in such activities, although complete harmonization has not yet occurred. Our comparative analysis shows that some countries encounter more severe conditions in their professional activities than others, indicating an absence of complete liberalization of the profession (Waschkau, 2007). In accordance with its fundamental guidelines, the EU is striving towards deregulating and liberalizing the market of professional services, although at the same time it conveys upon professional services a special status, allowing states

to regulate them based on their traditional, geographical, and demographic characteristics. The state can regulate tax advisory services in various manners, such as by determining the conditions to undertake and carry out the profession, protecting the title without any formal legal regulation of the profession and authorizing private professional organizations to award titles, or regulating who may represent taxable persons.

Tax Advisory as a Legally Regulated Profession

In states where tax advisory services are legally regulated, tax advisory is deemed a public profession. Chambers of tax advisors have special legal authorities and are charged with protecting the interests of members and ensuring that they operate in accordance with the law. They also have powers in disciplinary matters, which distinguishes chambers from private associations. They usually require special training and a test of professional knowledge and are charged with recognizing the professional qualifications of tax advisors from other member states. Usually, membership in chambers is mandatory and linked to obtaining the professional title. Systems making use of chambers legally regulate the rules of the chamber (Klement, 2008).

Tax Advisory as a Legally Unregulated Profession

In many European states, tax advisory services are not legally regulated. This “shortfall” is remedied by private professional organizations that represent the profession. In such states, providing tax advisory services is not exclusively reserved to a certain profession, but can be conducted by anyone, as in certain states that make use of chambers (e.g., Belgium, France, and Italy). Professional associations are responsible for professional training. Membership in the professional organization and the use of its name are not a condition for carrying out the profession, although the quality of the individual tax advisory is reflected in his or her professional organization membership. This ensures that tax advisors are interested in using the name of the professional organization and adhering to its professional rules. Some professional associations—although they do not use a protected title—still have strict rules of member conduct (e.g., in the Netherlands: *Orde van Balastingadviseurs*). Their purpose is to protect and further the standing and independence of the profession as well as represent the interests of members. They provide regular and additional training, give professional advice to members, act in disciplinary affairs, and protect the title. Many associations participate in improvements to tax legislation and propose improvements (Klement, 2008).

2 Short Overview of Theoretical Starting Points

Modern theory of tax advisory services maintains that the tax advisor must primarily strive to resolve the client's tax problems while simultaneously maintaining an active tax policy. It should be emphasized that solely preparing tax returns based on existing facts and in accordance with tax legislation is not enough (Schmitz, 2002); on the contrary—

the tax advisor must strive to provide clients with complete data on their tax position, timeframes, and tax liabilities. The client should be continuously informed of the activities undertaken by the tax advisor. In addition, the client must have constant access to all documentation to allow an uninvolved party to perform external supervision of the tax advisor's work.

Despite the fact that the tax advisor is primarily responsible to the client and must work to the client's benefit, the wider public, tax authorities, and directly or indirectly involved stakeholders also benefit from quality tax advisory services. Undoubtedly, the fundamental benefit of tax advisory services is the regulated and supervised collection of taxes, as the quality of tax returns would be lower without professional and reliable tax advisory services. Therefore, quality tax advisory services require a professional approach to work, while tax advisors must be knowledgeable, independent, and neutral while operating in the public benefit.

If tax advisors are to operate in the public benefit, they must not focus solely on their own profit; rather, they must consider the goals of the client, the professional organization, and society, which implies the need to maintain high ethical conduct and a sense of responsibility. In theory, tax advisors protect the law; therefore, they can have an important social, not only profitable, goal. The tax advisor serves and is responsible to the wider society (Pasch, 1997). From the legal perspective, several characteristics give tax advisory the appearance of a profession in the public interest (Mann, 2004): specialized, highly professional training; advisory-emphasized personal component of tax advisory services; self-responsibility and professional independence; importance of the confidential relationship between the advisor and the client; and the public's perception of the profession as trustworthy.

Quality of Tax Advisory Services

The term *quality* is understood as the optimal satisfaction of the client's needs through faultless services, in accordance with legal and professional regulations. The tax advisor must satisfy the client's professional and subjective quality requirements. The tax advisor views quality through the prism of statutory and professional requirements and evaluates quality based on his or her professionalism and understanding of the service performed.

Fundamentally, we can differentiate between quality requirements of the service provider and the client. The service provider defines quality from the point of view of the quality standards of the tax advisory firm whereas the client views quality through the prism of benefits received. The tax advisor defines quality as a service, performed beyond reproach and in accordance with professional rules, aimed at satisfying the client's tax liabilities. However, the literature emphasizes that how quality is viewed by the client is most important. If the client's expectations and understanding of quality are balanced, it is difficult to shift the

perception of quality to generally applicable requirements and measures. The subjective perception of quality highlights the level of satisfaction of the client's needs and the client's own perception of quality (Fischer, 2004).

Pestke (2000) categorized the quality of tax advisory services according to three criteria depending on the quality type, level, and instrument. He distinguished among the following types of quality:

- Structural quality, the level of which is determined by professional rules (namely the obligation to undertake basic and continuous training, professional requirements, professional liability, and the supervision of tax advisors);
- Procedural quality, which requires the client's heavy involvement in discerning the actual facts of the case at hand. Procedural quality has the following prerequisites: acting in accordance with applicable legislation, being familiar with and using jurisprudence, employing a planned process of verifying the actual facts, and demonstrating reliability in managing and archiving documentation;
- Objective quality, which encompasses not only the quality goals as defined by professional rules (structural quality) or the tax advisory firm (procedural quality), but also the quality and service itself. Objective quality relates to the service's professional correctness, timeliness, and provision in the anticipated form;
- Subjective quality, which is critical as the client is not familiar with the professional value of the service rendered and thus applies other quality measures. Factors of subjective quality include a positive attitude to the client, informing the client in a timely fashion and in a comprehensible form, explaining the effects of business decisions on tax matters, and working in a simulative environment;
- Innovative quality, the purpose of which is to improve the attained level of quality of services as well as optimize and continuously improve business processes; and
- Applicable quality, the highest level of which is reached when the quality is verified and confirmed by an independent external evaluator or when the advisor obtains a quality certificate.

In terms of the level of quality, we can differentiate among:

- Minimum quality standards, where the minimum quality standard is achieved when tax regulations and rules of the profession are adhered to;
- Security quality standards, which assume that—in tax advisory—it does not suffice to consider only legislation and professional guidelines, as services must be provided in a constant, predetermined manner;

- “Client utility” standards, which presuppose that lawful and well-planned services cannot be of a high quality unless they have a useful value for the client.
- Client comfort standards, which imply that the tax advisor must provide individualized and non-standard services to the client;
- Combined quality standards, from which it follows that, when the tax advisory firm provides professionally correct, tailor-made services, it reaches a higher level of quality; and
- Top quality standards, at which level the tax advisory firm engages external independent assessors and/or evaluators to evaluate the quality level attained and strives towards top quality standards (best practices).

Finally, in terms of the quality instrument, we differentiate among:

- Professional rules of conduct, which are the basis of professional and lawful tax advisory services. They concern “objectively determinable quality” and encompass conditions for conducting the profession—namely, independence, responsibility, secrecy, proficiency, and professional liability insurance. Professional guidelines do not provide the advisor with instruments to ensure higher quality, process optimization, innovative services, or tailor-made services for important clients. However, they do provide a baseline quality level.
- Risk management, which is a preventative instrument aimed at protecting the tax advisor from risks. Risk management does not directly improve quality and does not enable certification or external evaluation of quality, but it does continuously analyse risks and allow a risk prevention strategy to be designed.
- Quality management, which encompasses management's activities in relation to establishing a quality system, such as the quality policy, quality goals, allocation of responsibilities, and asset-based system implementation, including quality planning, managing, and assurance. Quality management is defined by the organizational structure, responsibilities, processes, procedures, and means used to ensure quality.
- Quality assurance, which encompasses planned and systematic activities within the system that are widely supported by management, staff, clients, and the wider public.
- Overall quality management, which is a management method encompassing all stakeholders. It is focused on quality, which is measured through client satisfaction and the consequent long-term success of the firm and employee satisfaction.

Risk Management as a Function of the Activity's Quality

In tax advisory services, risk management can be understood as a combination of measures aimed at mitigating or reducing risks; it is a consistent part of the quality system, which reduces the number of claims and loss events and improves the quality of services provided. Its purpose is to detect, manage, and incorporate existing and potential risks. Risk management is part of the business strategy and is reflected in the pricing strategy, client management strategy, and services. Risks to which tax advisors are exposed can be categorized into two groups: risks originating from clients and those originating from the tax advisor. The risks originating from the advisor can be further divided into business risks due to operating in the market and professional risks arising from the special characteristics of the profession. The most significant business risk is the risk of providing incorrect advice. The specific characteristics of ever-changing tax legislation, as well as the differing interpretations of it, often generate doubt in taxable persons as well as in tax advisors. Therefore, the risk of various professional mistakes is quite high. Due to their unfamiliarity of tax legislation and its differing interpretations, clients often believe that their tax advisors are to blame for mistakes. Tax advisors can avoid these risks only by recognizing them and introducing appropriate measures.

3 Analysis of Tax Advisory Services in the Republic of Slovenia

In Slovenia, although the profession began developing soon after our national independence in both the Slovenian Audit Institute and the Chamber of Tax Advisors, it has not yet become an organized profession as both organizations have only 167 licensed advisors. Compared to the number of advisors in Germany (more than 88,000 tax advisors), we can conclude that Slovenia has too few licensed tax professionals. In Slovenia, in addition to licensed tax advisors, tax advisory services are provided by accounting service providers, stock brokers, bank clerks, attorneys at law, and notaries public. In these groups, tax advisory services mainly occur as a result of their everyday work; thus, such services cannot be deemed as planned advisory services. This unplanned development has resulted in tax advisors having varying degrees of knowledge offering services of a varying quality. As the initial costs of entering the profession are low, some persons without appropriate education, experience, and professional liability insurance provide tax advisory services in Slovenia. As a result, we decided to ask service providers and clients about the services. Our study included:

- Small, medium-sized, and large companies, where the questions related to how they perceived tax risks, whether they make use of tax advisory services, who provides such services, which factors were most important when choosing their tax advisor, what are the main factors of quality tax advisory services and

how they perceive such quality, which measures would improve the quality of tax advisory services, and which regulative mechanisms should be used to limit entry into the market.

Table 1: Respondent users of tax consulting services – depending on their size

Firm size	Number of questionnaires sent	Number of questionnaires received	Response ratio (in per cent)
Small	830	181	21.8
Medium	463	147	31.7
Large	207	120	58.0
No response in terms of size	-	12	2.6
Total	1500	460	30.6

- Tax advisory service providers, where we surveyed independent tax advisors, audit companies and accounting service providers, and in-house tax advisors. The questions related to their opinion of the status and development of services in Slovenia, their perception of quality, the impact of quality on obtaining new clients, their perception of risks, and their awareness of their responsibility to clients, the public, and legislators.

Table 2: Respondent tax consultants

Tax advisory service providers	Number of questionnaires sent	Number of questionnaires received	Response ratio (in per cent)
Chartered tax advisor	99	50	50.5
Tax advisor	66	19	28.8
Accounting service provider	1100	134	12.2
Certified auditor	200	54	27.0
Total	1465	257	17.5

In order to identify the optimal model of legal regulation of tax advisory services in Slovenia, we studied and interviewed relevant stakeholders. We wanted to find the optimal combination (relationship) among quality tax advisory services, social responsibility, and associated risk management as well as among the various legal frameworks or models of regulating tax advisory services.

We synthesized and identified the four possible models of regulating tax advisory services. In the first model, the Tax Advisory Act determines the conditions for obtaining the title of tax advisor as well as the rules of conduct; persons without the title may not provide tax advisory services. In the second model, the Tax Advisory Act gives one or several professional organisations the concession for performing training for the tax advisor title, conferring the

title, and supervising tax advisors. The act protects the title of tax advisor. This model allows tax advisory services to be carried out by unlicensed persons, although they must not use the title of tax advisory or tax practitioner. In the third model, the Ministry of Finance, together with one or more professional organizations, awards the title of tax advisor based on the Tax Advisory Act and supervises tax advisors while awarding concessions for tax advisor training to other organizations. This model allows tax advisory services to be carried out by unlicensed persons, although they must not use the title of tax advisor or tax practitioner. In the fourth model, tax advisory services remain unregulated.

The results of our study of the quality and regulation of tax advisory services are summarized in the following points, including participant responses. Based on these results, in the conclusion we suggest the optimal model of regulating tax advisory services.

In terms of the perception of the quality of tax advisory service clients, several results were found. First, tax advisory clients mainly choose their tax advisor based on the recommendations of other users (53%) or as a result of their presence at the tax advisor's lectures and the advisor's professional recognition (22%). The results indicate that a significantly greater proportion of small enterprises than medium-sized or large enterprises randomly select their tax advisor (large companies in the fewest cases). In contrast, as the company size grows, so does to a statistically significant degree the proportion of responses that the selection was a result of attending the tax advisor's lectures: 12.7% of small, 19.7% of mid-sized, and as much as 32.5% of large enterprises gave such a response (the difference is statistically significant).

The most important competitive factor when selecting a tax advisor is professionalism, followed by trust in the tax advisory services provider, a personal relationship with the tax advisor, and the tax advisor's public image. The quality of services rendered is a significantly more important factor when choosing a tax advisor for clients (88%) than the price of services (5%). Our statistical test revealed no statistically significant differences between different sized respondents in terms of factors influencing their choice of tax advisor. When assessing quality, clients find the following factors most important: acting in accordance with tax legislation, jurisprudence, and professional guidelines (79.6%); having practical experience as a tax advisor (52.4%); providing the timely delivery of services and costs (45.2%); and responding to and understanding the client and his or her needs (44.3%).

Several statistically significant differences were noted with respect to the main factors of quality tax advisory services per company size, including the advisor's practical experience as well as response to and understanding of the client's needs and expectations. As the company size increases, the practical experience of the tax advisor is more often cited as an important factor of quality. In large companies, the share is 63%, while it is only 48.6% in small

companies. Similarly, large companies to a greater degree appreciate the tax advisor's quick response as well as the advisor's understanding of the client's needs and expectations (57.5%), compared to only 41.4% of small companies. Finally, outcome quality¹ (mean value of 1.3) is most often cited as the most important quality factor (on a scale from 1 to 4), followed by procedural quality (2.27), client quality (2.64), and service provider quality (3.19). No statistically significant differences per company size were noted.

In terms of tax advisory service providers, several findings are worth noting. Tax advisory service providers recognize the tax advisor's professionalism² as the most important competitive factor (mean value 3.04), followed by the quality of the tax advisory services (3.66), response to client's requests (4.16), personal relationship with the client (4.42), client confidentiality (4.73), links to accounting services (4.95), and cost (5.18). The proximity of the tax advisory firm and the number of tax advisors are viewed as unimportant. Our analysis of the differences shows that the responses of all tax advisory service providers are quite homogenous when it comes to the three most important competitive factors.

When assessing the factors of quality tax advisory services, tax advisory service providers identified several factors as being important, including acting in accordance with tax legislation (81.3%), demonstrating the practical experience of tax advisors (59.1%), responding to and understanding the client's needs and expectations (49.8%), showcasing the personal traits of tax advisors (45.5%), and delivering services in a timely manner in the anticipated form and meeting the cost-benefit ratio (44.7%). An individualized approach to the client and the status of the tax advisor are viewed as the least important factors. Statistically significant differences among service providers emerged only in terms of their individual approach to clients. The test conducted of service providers and clients showed significant differences in individual approach to the client, status of the tax advisor (chartered or not), and personality traits of tax advisors. Tax advisory service providers attribute statistically significantly more value to individual treatment of the

¹ *Outcome quality* refers to the substantive correctness of the service, approval of the service by the tax authorities and judicial bodies, managed documentation, correctness of tax returns, explanations of tax legislation to the client, and management of disputes and client complaints. *Procedural quality* refers to the formal process of service delivery, length and duration of service delivery, response rate of the firm, atmosphere in the office, relations among staff members, overall attitude of members of staff towards the client, and handling of the client's documentation. *Client quality* refers to preparedness to cooperate with the advisory and be included in the service delivery process as well as communicating with the tax advisor. *Service provider quality* refers to the location of the tax advisory firm, interior design and appearance of the office, equipment of the office, number and professional level of employees, opening times, external recognisability of the office, recommendations of satisfied clients, charisma, and recognition of members of staff.

² 1 denotes the minimum mark while the maximum is 10.

client than the clients themselves. At the same time, service providers attribute more importance to the status of the tax advisor and his or her personal traits than clients.

Outcome quality is most often cited as the most important quality factor and has the lowest mean value of 1.51 (on a scale of 1 to 4); the mean value of procedural quality is 2.5 while the mean value of client quality is 2.8. When classifying quality factors per importance, service providers are in accord, as they classified outcome quality (top classification) as the most important (between 70% and 74% of cases). The mean values of service provider quality are notably lower in the case of tax advisors. We noted no statistically significant differences in the classification of the factors that all groups of tax advisory services classify as most and second most important (outcome and procedural quality). Tax advisory service providers more often than their clients cite quality of the service provider. To a statistically significant degree, clients classify other aspects of quality (such as client quality, procedural quality and outcome quality) higher than service providers.

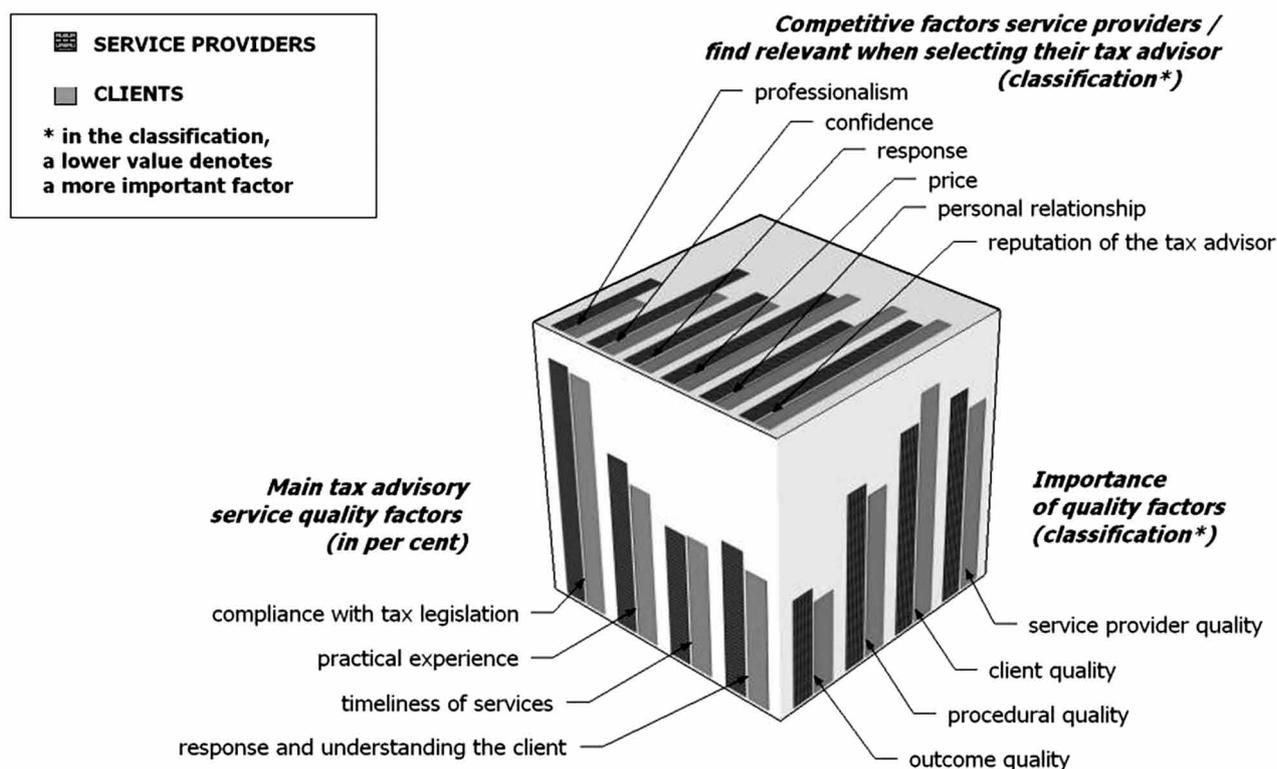
The findings related to tax advisory service clients and their perception of risk highlighted several important concepts. Regardless of company size, clients use tax advisory services to reduce the risk of non-compliance with legislation (61%), criminal risk (54.3%), professional risk (40.0%), business risk (36.9%), and inspection risk (32.4%). In this regard, no statistically significant differ-

ences were noted among companies of different sizes. In addition, regardless of company size, tax advisory service clients affirm that professional liability insurance is an important factor when selecting advisor (86%), while only 8% responded that insurance is not important. No statistically significant differences were noted. Furthermore, and again regardless of their size, tax advisory service clients confirmed that they would file a claim against the insurance policy if the advisor made a professional error (73.5%).

In terms of perception of risk, the findings can be summarized as follows. For tax advisory service providers, the most important risk is the risk of non-familiarity with tax legislation and jurisprudence (43.6%), followed by the inspection risk (38.5%), risk of professional error (35.0%), price non-competitiveness (33.1%), and non-management of operational risks (32.3%). The loss of the public's and clients' trust, competitiveness due to low service quality, and frequent complaints of unhappy clients are viewed as less important risks. Several statistically significant differences appeared among tax advisory service providers—namely, professional errors, non-managed operative risks, frequent complaints of unhappy clients, and the loss of the public's and clients' trust.

Tax advisors recognized the following most important business risks of the tax advisory firm: reduction in service fees (49.8%), loss of key clients (46.3%), unprofessionalism of members of staff (42.0%), too few clients (38.9%),

Figure 1: Factors of quality tax advisory services



loss of key staff members (31.5%), and claims due to errors (24.5%). They recognized financial risks, the entry of new competitors into the market, the lack of employee motivation, extremely high employee expectations, inadequate IT support, and costs of replacing lost clients as the least important business risks. Several statistically significant differences were noted among different groups of tax advisors concerning operational risks, including the reduction of fees, which is most often cited as a business risk by chartered auditors (approximately 60%) and about half of tax advisors and accounting service providers, but only 30% of chartered tax advisors. The loss of key members of staff was cited as a risk by 40% of chartered tax advisors, tax advisors, and chartered auditors but by only around 20% of accounting service providers. All four groups view the entry of new competitors into the market as a lesser risk, although statistically significant differences emerged among the groups: accounting service providers (27%), chartered auditors (24%), chartered tax advisors (12%) and tax advisors (5%). Meanwhile, 32% of accounting service providers cited financial risks among key business risks, while the share in the other groups was around 13%.

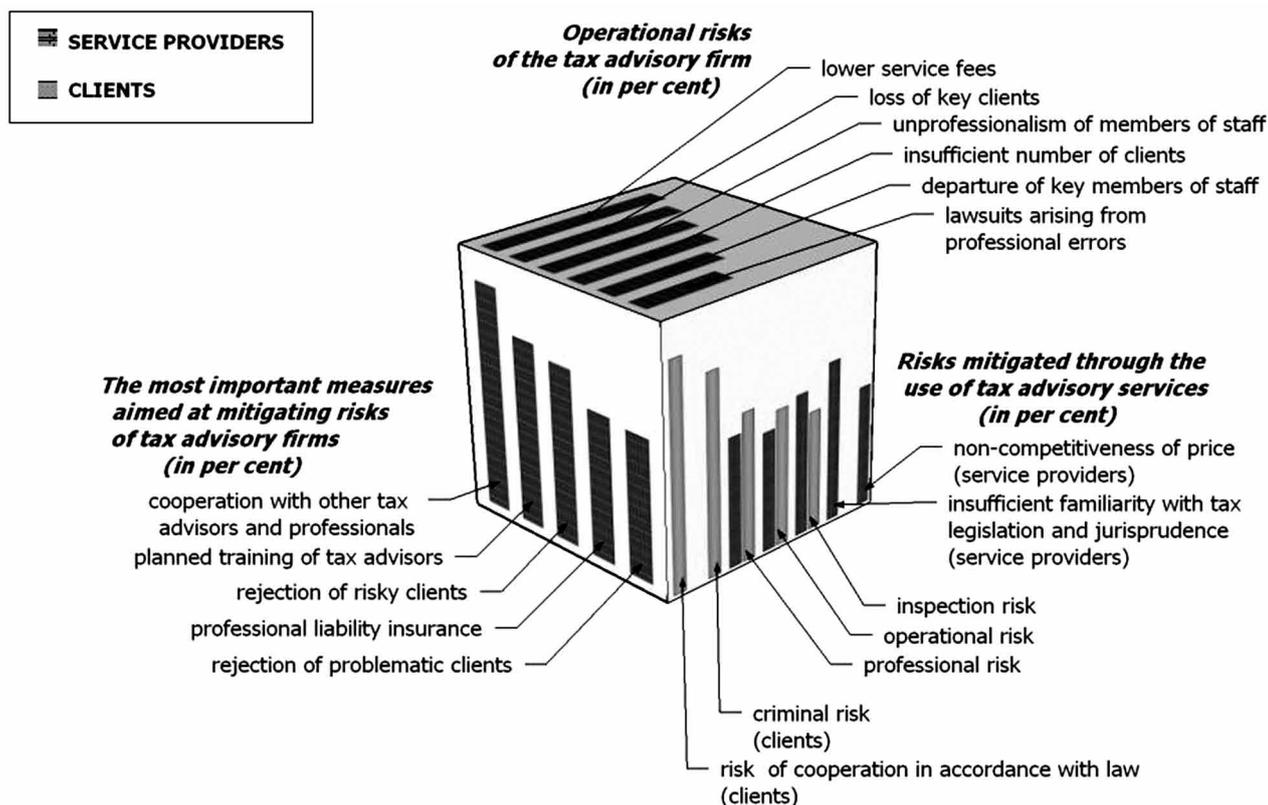
Several risk mitigation instruments are vital for tax advisors, including cooperating with other tax advisors, auditors, accountants, surveyors, attorneys, and profes-

sional organisations (72.4%); planning tax advisor training (59.5%); rejecting risky clients (56.4%); maintaining professional liability insurance (46.7%); and rejecting problematic clients (45.5%). Using internal controls, planning resources, and acquiring a quality certificate are less important risk mitigation instruments. Statistically significant differences were noted among different groups of tax advisors concerning operational risks in terms of rejecting problematic clients and maintaining professional liability insurance.

Legal Regulation of Tax Advisory Services

This section summarizes the findings of providers of tax advisory services regarding the suitability of the legal regulation of tax advisory. Tax advisory service clients recognized legal regulations as the most important measure for improving quality (59%), followed by internal supervision (33%) and a quality certificate (15%). Statistically significant differences between service clients were also noted in terms of legal regulation of tax advisory services and internal control in the tax advisory firm. Larger firms more often viewed the legal regulation of tax advisory services as the most effective route to improving their quality. To a statistically significant degree, smaller firms more often than mid-sized and large firms view that quality could be improved with internal controls in the firm.

Figure 2: Risk factors related to tax advisory services



Regardless of their size, tax advisory service providers recognized all three models of legal regulation as suitable (model 1 38%, model 2 30%, model 3 26%), while they rejected the fourth model (6%), under which tax advisory services would remain unregulated. In terms of the suitability of legal regulation of tax advisory services in Slovenia, we found no statistically significant differences per company size.

Service clients cited several regulative mechanisms barring market entry as important, including practical experience (75%), certificate (71%), and formal education (47%), whereas recommended prices and price fixing were viewed as unimportant. Our statistical test of service providers and clients showed significant differences in practical experience, professional exam (certificate), and recommended prices in terms of barring market entry. Users of tax advisory services—more often than service providers—believe that practical experience and recommended prices should be introduced as regulative mechanisms barring market entry. In contrast, service providers more often cited the professional exam (certificate) than service users. No statistically significant differences in the responses concerning other offered regulative mechanisms appeared.

In terms of the suitability of the legal regulation of tax advisory, several important findings emerged. Providers of tax advisory services viewed legal regulation of the profession as the most important measure for improving service quality (76%), followed by internal control (28%) and acquiring a quality certificate (17%). Differences in service providers' responses appear only with regard to acquiring a quality certificate. In addition, to a significant degree, service providers (more often than their clients) view legal regulation as the most effective route to improving the quality of services. On the other hand, to a statistically significant degree, clients view that additional measures are not needed.

Tax advisory service providers recognized all three models of legal regulation as suitable (model 1 40%, model 2 29%, model 3 27%), but they rejected the fourth model (11%). No statistically significant differences were noted in the views of various groups of service providers in terms of model suitability, although service providers supported the second model more often than their clients as well as leaving tax advisory unregulated to a statistically significant degree. In terms of the other two proposals, no statistically significant differences occurred between service providers and their clients.

For service providers, legal regulation mostly affects their handling of tax law (66%), followed by the reliability and correctness of advice (65%), status of the tax advisor (50%), compliance with guidelines, and practical experience of advisors (48%). The legal regulation to a lesser degree affects the practical experience of tax advisors, their specific industry know-how, the cost-benefit ratio, personal traits of tax advisors, their response to and understanding

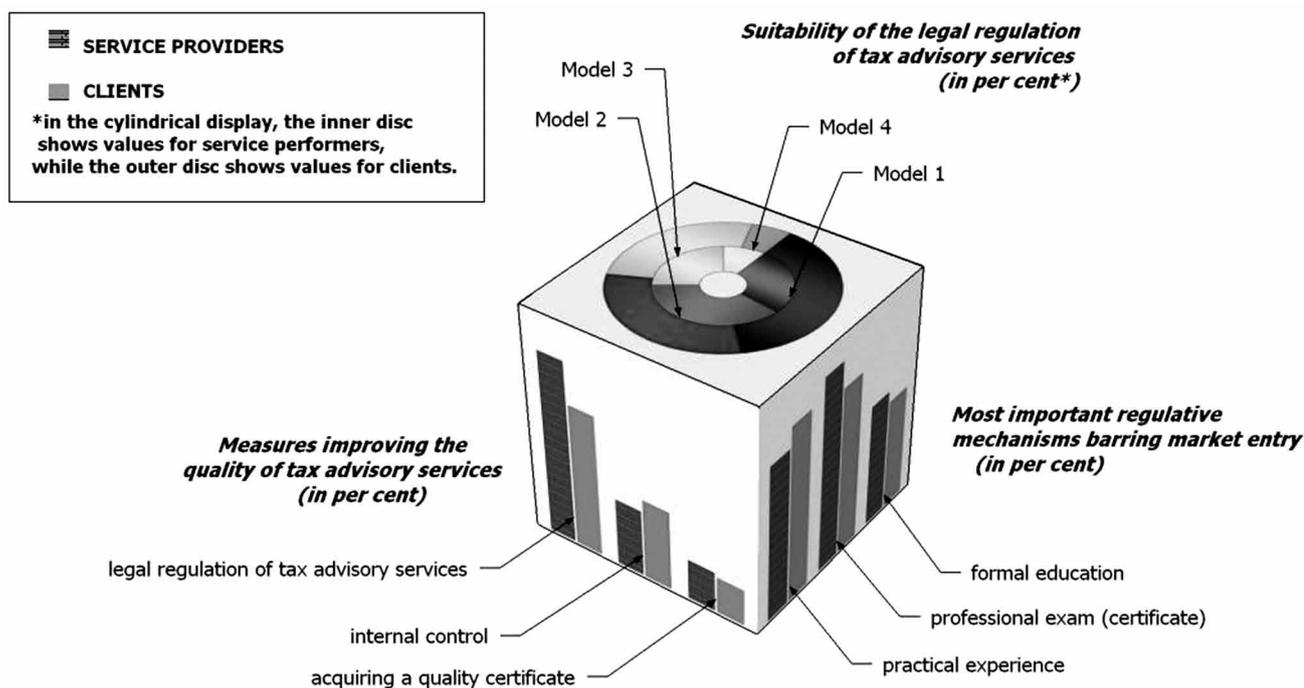
of their clients, their individual approach to clients, and the timely provision of services.

Accounting service providers' responses significantly differ from the responses of the other groups. Most chartered auditors (70%) view that the legal regulation of the field would most positively contribute to professional guidelines, which is slightly higher than the share of chartered tax advisors (64%), tax advisors (58%), and accounting providers (32%). Approximately 60% of chartered tax advisors, tax advisors, and chartered auditors agree that the legal regulation of tax advisory services would affect the tax advisor's status, while only 40% of accounting service providers agree. Accounting service providers are to a greater degree of the view that legal regulation of the field would affect the practical experience of tax advisors (42%). This view is shared with only a quarter of chartered tax advisors and tax advisors and only 17% of chartered auditors. Similar findings apply to industry-specific know-how.

Service providers believe that the tax advisor should have at least a university degree and five years of experience; they believe that several regulative mechanisms barring entry into the market are desirable, including a professional exam (82.5%), practical experience (66.1%), and formal education (51.7%). Price fixing and recommended prices are viewed as unimportant regulative mechanisms. Significant differences were noted when comparing the responses of different groups of service providers. The response "practical experience" was most often given by accounting service providers (75%), followed by chartered tax advisors (62%), tax advisors (58%) and chartered auditors (only 50%). In contrast, 100% of chartered tax advisors, 95% of tax advisors, 93% of chartered auditors, and only 70% of accounting service providers believe a professional exam should be introduced as a regulative mechanism barring market entry. Our statistical test of service providers and clients shows statistically significant differences in terms of practical experience, professional exam (certificate), and recommended prices.

Clients more often than service providers believe that practical experience and recommended prices should be introduced as regulative mechanisms barring market entry. In contrast, service providers more often cite the professional exam (certificate) than service users. No statistically significant differences appear in the responses concerning other regulative mechanisms. Service providers believe in the significance of professional organizations primarily because they organize round tables, seminars, and lectures (78%); provide professional help to tax advisors (74%); cooperate in establishing the tax system (69%); conduct training for obtaining the title of tax advisor (62%); cooperate with other related institutions (54%); strive to improve the tax advisor's reputation (54%); perform oversight over tax advisors (53%); and strive to provide additional training (46%).

Figure 3: Suitability of the legal regulation of tax advisory services



4 Conclusion

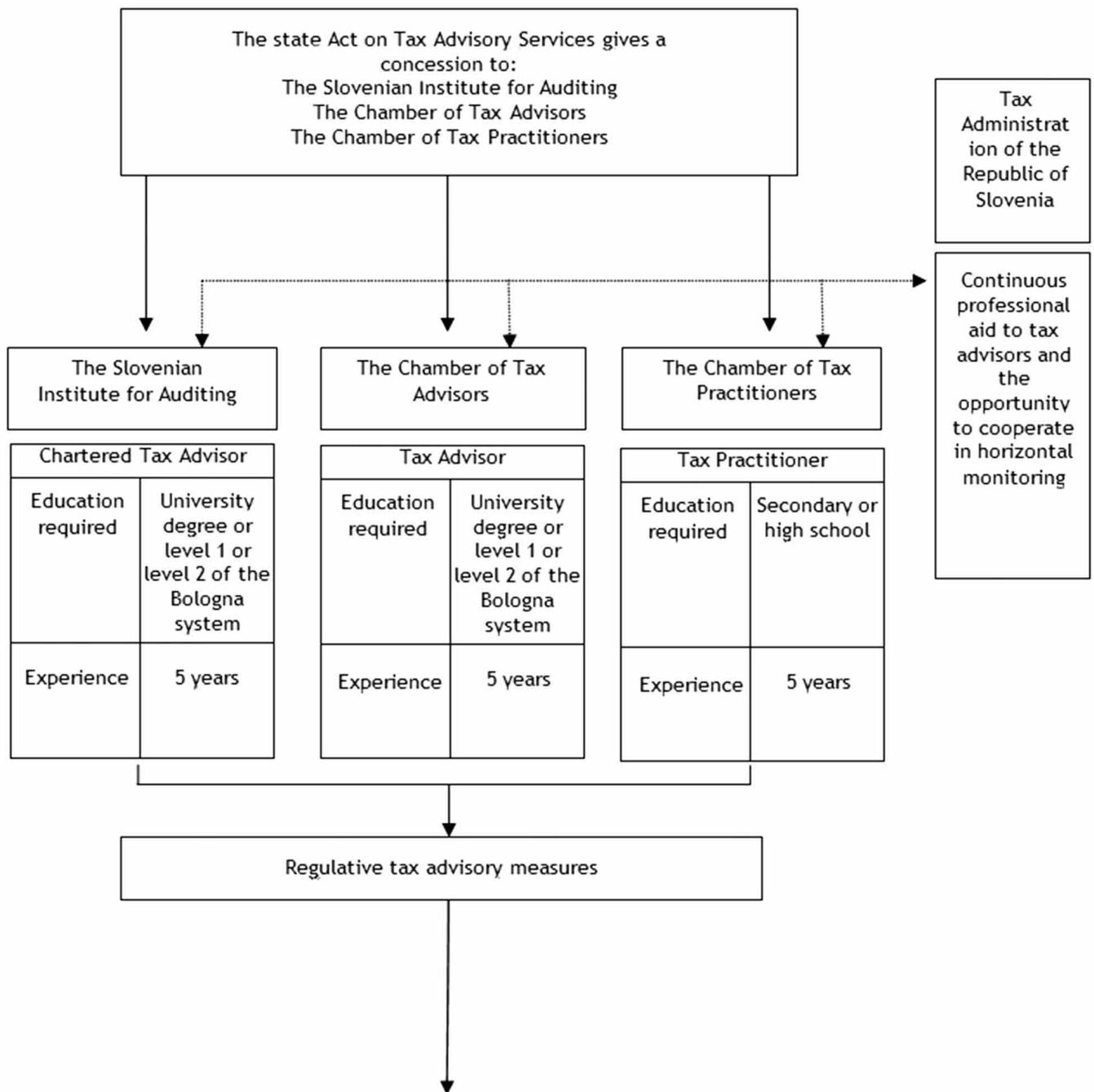
Based on our findings, we prepared a model of the legal regulation of tax advisory services. The proposed legal regulation is in accordance with EU law and allows tax advisory services to be carried out by unlicensed persons, although they must not use the title of tax advisor or tax practitioner. By legally regulating tax advisory services, the responsibilities of tax advisors and tax practitioners become broader and include their civil liability towards their clients and third persons with whom they have no contractual relationship, professional liability of experts and providers of professional services, as well as criminal liability, due to the fact that both tax advisors and tax practitioners can be accessories to tax fraud when they act unlawfully for the benefit of their client. Despite the fact that both tax advisors and tax practitioners work for the benefit of their client, they also represent the public interest as they respect and enforce trust in tax regulations and ensure their effective implementation. As a result, tax advisory services serve as protectors of tax law. According to a study conducted by Kolar (2008), 47% of accountants have senior or high school education; the study found no statistically significant correlation between the skills of accountants obtained through education and the success of their companies. In our study, accounting service providers are the most important tax advisors as they have a 65% share of the market of small companies and a 20% share of the market of medium-sized companies, which reinforces our belief that tax practitioners should be regulated in order to ensure high-quality tax advisory services for small companies and advisors with

less formal education. Figure 4 shows the proposed legal regulation of tax advisory services as we propose according to our main research findings.

The state should legally regulate the activity by:

- Giving concessions to professional tax advisory organisations;
- Protecting the professional title of tax advisor and tax practitioner;
- Requiring professional organizations to adopt professional and ethical rules, thereby ensuring the secure and diligent operation of tax advisors;
- Defining the conditions for performing tax advisory services;
- Requiring professional liability insurance;
- Ensuring public records of tax advisors and tax practitioners;
- Defining the minimum level of education of tax advisors and practitioners and determining the conditions for obtaining licences and educational institutions able to award the titles;
- Together with professional organisations, naming a committee charged with awarding the tax advisor and tax practitioner titles;
- Together with professional organisations, providing professional assistance to tax advisors and practitioners to prevent them from giving incorrect tax advice. This rep-

Figure 4: Proposed legal regulation of tax advisory – Model 2



resents strengthening responsibility for high-quality tax advisory services;

- Requiring professional organizations to establish a quality management system for tax advisory services, which should be independent and subject to public scrutiny, financed securely and without undue influence of tax advisors, ensure that tax advice is provided by people with an appropriate professional education and appro-

appropriate experience and training, ensure an objective procedure for selecting supervisors to prevent conflicts of interest between supervisors and supervised persons, and after supervision, clearly note any findings in the report and ensure annual publication of results relating to tax advisory; and

- Requiring professional organisations to appoint committees to carry out inquiries and handle disciplinary measures and sanctions.

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