What is the difference between § 5^1 of the Income Tax Act and § 84 of the Taxation Act

Section 5^1 of the Income Tax Act

The most important difference between the provisions is that, **under § 5^1 of the Income Tax Act, the tax payer incurs a tax liability as soon as they have made a transaction in which at least one of the main objectives (not the only objective!) is to obtain a tax advantage (not tax evasion!) regardless of the content and form of the transaction (the form and content of the transaction may be compatible!).**

Therefore, based on § 5^1 of the Income Tax Act, any transaction is subject to declaration and taxation with income tax, in which one of its purposes is to obtain a tax advantage and the actual content and form of the transaction are compatible with each other.

Section 84 of the Taxation Act

On the other hand, the application of § 84 of the Taxation Act and taxation based on it also requires the identification of the real economic content of the transactions, and the said provision can be applied only if the transaction was made for the purpose of tax evasion.

Depending on the transaction, it is subject to declaration, based on the content, in the correct Annex of the tax declaration form TSD.

Last updated on 06.01.2026