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The Polish system of property taxation

Polski system opodatkowania nieruchomości

Abstract. The purpose of this paper is to outline the Polish system of real estate taxation and main problems associated with its implementation. Despite socio-economic changes, this area of the tax system has not been reformed in recent years. Consequently, real estate tax in particular is a levy that presents great difficulties in assessment and collection. This is evidenced by the numerous rulings of administrative courts, which, in quantitative terms, place real estate tax right after value added tax. The study is primarily based on an analytical research method drawing on legal acts, the literature on the subject, and the achievements of judicature.

Keywords: tax system; property tax; elements of the tax structure.

Streszczenie. Celem opracowania jest przedstawienie w zarysie obowiązującego w Polsce systemu opodatkowania nieruchomości oraz podstawowych problemów, które związane są z jego funkcjonowaniem. Pomimo przemian społeczno-

-gospodarczych wskazany obszar systemu podatkowego nie był na przestrzeni ostatnich lat reformowany. W konsekwencji szczególnie podatek od nieruchomości jest daniną bardzo trudną w jej wymiarze i poborze. Świadczy o tym bardzo liczne orzecznictwo sądów administracyjnych, które w ujęciu ilościowym stawia podatek od nieruchomości zaraz za podatkiem od towarów i usług. W opracowaniu użyto przede wszystkim analitycznej metody badawczej opartej o akty prawne, literaturę przedmiotu oraz dorobek judykatury.

Słowa kluczowe: system podatkowy; podatek od nieruchomości; elementy konstrukcyjne podatku.

1. Introduction

Since a fall of a communism, Poland has undergone major changes in the economic and social spheres. One of the aspects of these changes was an establishment of a new tax system based on income, turnover, and property taxes. While in the first two cases, on account of, *inter alia*, a need to harmonize domestic law with European law, we are dealing with a relatively modern and dynamically changing tax system, property taxes, in particular those related to an ownership of real estate, have remained on the margins of these transformations. In principle, without major changes in Poland since the 1990s, the model of property taxation based on three taxes has been functioning: property tax, agricultural tax, and forestry tax. The oldest legal regulation concerns agricultural tax and dates back to 1984¹. Not much newer is the Act of 12 January 1991 on local taxes and charges², which contains solutions relating to real estate tax. The law regulating forestry tax dates back to 2002³, i.e. it is almost 20 years old.

The construction of the above-mentioned taxes is outdated and subject to criticism in the academia of tax law⁴. First of all, the fact of making

¹ Act of 15 November 1984 on Agricultural Tax (consolidated text: Dz.U. [Polish Journal of Laws] of 2020, poz. [item] 333 with subsequent amendments).

² Consolidated text: Dz.U. of 2019, poz. 1170 with subsequent amendments.

³ Consolidated text: Dz.U. of 2019, poz. 888 with subsequent amendments.

⁴ See e.g. L. Etel, R. Dowgier, *Podatki i opłaty lokalne – czas na zmiany*, Biały-stok 2013.

the burden under this title dependent, not on the value of the property, but on its area is raised. In Poland, therefore, the cadastral tax which depends on the value of property, a tax which is common in developed countries, does not function. Current solutions also have a number of shortcomings that greatly complicate the assessment and collection of real estate, agricultural, and forestry tax. It is suffice to mention that annual reports presented by the Supreme Administrative Court, which exercises control over decisions in tax cases, show that real estate tax is the second provision, after the tax on goods and services, to which most decisions of administrative courts relate to⁵. What is more, the Constitutional Tribunal has already passed seven judgments on the compatibility of the tax regulations with the Constitution of the Republic of Poland.

The above justifies the necessity to present, within the limitations resulting from the volume of this study, the significance of the issues related to real estate taxation in Poland and to indicate the main problems that arise against this background. The considerations are based primarily on an analytical research method based on legal acts, the literature on the subject, and the body of judicature.

2. Taxes on real estate as municipal income

Pursuant to Article 4(1) of the Act of 13 November 2003 on revenues of local government units⁶ the sources of the own revenues of the lowest level of local government in Poland (communes) include revenues from property tax, agricultural tax, and forestry tax. These taxes are administered by local government tax authorities – heads of villages, mayors (city presidents) with jurisdiction over the place where the tax subject is located. Consequently, the distribution of revenue from taxes on real property ownership is based on a territorial criterion. This also results in Poland having a decentralized system of local government tax authorities. Each of

⁵ Cf. e.g. *Informacja o działalności sądów administracyjnych w 2020 r.*, Biuro Orzecznictwa Naczelnego Sądu Administracyjnego, Warszawa, March 2021, <https://www.nsa.gov.pl/sprawozdania-roczne.php>.

⁶ Consolidated text: Dz.U. of 2021, poz. 38 with subsequent amendments.

the nearly 2,500 municipalities has its own tax authority which is competent, among other things, in assessing and collecting taxes related to the ownership of real estate⁷. These are independent bodies responsible for the verification of taxpayers' fulfilment of their obligations under the tax law which, given the low quality of regulations in this respect, can sometimes lead to discrepancies in interpretation. Therefore, identical buildings or land are taxed differently in different municipalities, which is an undesirable phenomenon. The blame for this state of affairs, however, should be placed primarily on the legislature, which has not taken a legislative action to eliminate the provisions which raise significant problems in practical application.

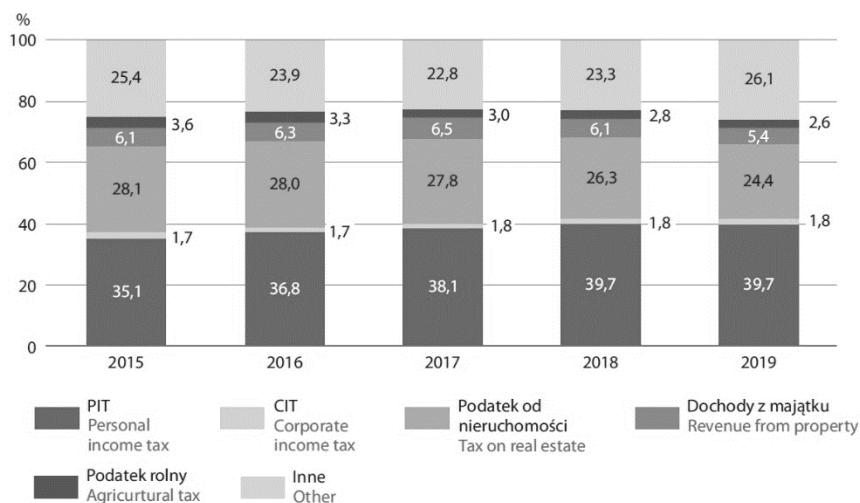
The territorial criterion of distribution of revenues from real estate taxes leads to a situation where significant differentiation in municipalities' own revenues on this account occurs on the national scale. This translates into relatively low revenues of rural communes and high revenues of urban communes. This results not merely from the principles of land taxation, but from the fact that the highest local government revenues come from the taxation of buildings and structures which are subject to real estate tax. Therefore, municipalities which are significantly urbanized have much higher revenues from this source than municipalities with low intensity of development.

Among the taxes levied on real estate, revenues from real estate tax represent the major income. Against this background the agricultural and forestry tax burdens are in fact marginal. This situation results mainly from the relatively low rates of these taxes in comparison with real estate tax and also from the fact that real estate tax covers not only land, but also buildings and other structures. Real estate tax also constitutes a significant share of the total revenues of municipalities, as is confirmed by the annually published reports on the execution of the state budget⁸. The above proportions in subsequent budget years are illustrated by the chart below.

⁷ See more broadly P. Smoleń (ed.), *System organów podatkowych w Polsce*, Warszawa 2009, p. 239 et seq.

⁸ The electronic versions of these reports are available on the website of the Ministry of Finance: <https://www.gov.pl/web/finanse/sprawozdania-budzetowe>.

Chart 1. Structure of municipalities' own revenue by source.



Source: *Gospodarka finansowa jednostek samorządu terytorialnego 2019 (Financial management of local government units 2019)*, Central Statistical Office, Warszawa 2020, (https://stat.gov.pl/files/gfx/portalinformacyjny/pl/defaultaktualnosci/5483/5/16/1/gospodarka_finansowa_jednostek_samorządu_terytorialnego_2019.pdf).

3. Taxing authority of municipalities with respect to taxes on real estate

The legal basis for real estate taxation in Poland is based on acts of law, which regulate the construction of real estate tax, agricultural tax, and forestry tax, but also on acts of local tax law adopted by municipalities' governing bodies (resolutions). These are acts of municipal councils passed on the basis of statutory authorisations, valid within a limited area, corresponding to the local jurisdiction of these bodies, and concerning tax matters⁹.

⁹ L. Etel, *Uchwały podatkowe samorządu terytorialnego*, Białystok 2004, s. 25.

The Constitution of the Republic of Poland¹⁰ (Articles 84 and 217) stipulates the principle that the levying of taxes is to be established by statute. The basic elements of the construction of these charges must also be determined by statute. For this reason, municipalities' tax powers, understood as the right to determine the amount of taxes and local fees, are also limited by law. The basic structural elements of taxes refers primarily to tax rates, exemptions, and reliefs, as the acts allow, and sometimes order municipal councils to adopt resolutions in this respect.

Most of the competence provisions constituting the basis for the adoption of tax resolutions by municipal councils are of an optional nature. The legislator has, therefore, left to the discretion of municipalities such matters as the introduction of tax exemptions in the area of real estate taxation other than those specified in the act. Exemptions may not take a form of preferences addressed to entities, but may relate to the subjects of taxation (the Constitution reserves tax exemptions for particular categories of entities for statutory regulation).

Another authority of an optional nature is the introduction of reliefs from agricultural tax. Such a power is not vested in municipal councils with respect to real estate tax or forestry tax, although it is difficult to indicate why it is so.

Applicable rates are the third structural element of real estate taxes which is under the control of municipal councils. In case of real estate tax, it is the law that sets the maximum annual specific rates for particular categories of taxable objects. They are subject to annual adjustment by the inflation index. The municipal council is obliged to adopt a resolution determining the property tax rates for a given tax year which are not higher than the maximum rates determined by the Act. However, no minimum rate level exists that the municipal council must adopt. In addition to setting the rates for a given year which, as it was indicated in the above, is the responsibility of the municipal council, the council may also differentiate amount of rates within particular categories of taxable objects – in principle, this boils down to distinguishing the basic rate and a lower rate

¹⁰ Ustawa z dnia 2 kwietnia 1997 r. Konstytucja Rzeczypospolitej Polskiej (Dz.U. Nr [No] 78, poz. 483).

(e.g. a rate for buildings related to business activities and a lower rate for buildings related to specific activities, such as tourism).

The powers of municipal councils with respect to the rates of the agricultural and forestry tax are slightly different. The amount of those taxes depends, not only on the area of land subject to taxation, but also, respectively, on the price of a purchase of rye or a sale of wood. In the case of agricultural tax, the statutory tax rate is the equivalent of the price of 2.5 or 5 q of rye per tax year. The forestry tax rate is the equivalent of the price of 0.220 m³ of wood. If the municipal council does not take any action, the aforementioned values constitute the basis for calculating the tax in a given year. However, by virtue of a resolution of the municipal council, it is possible to reduce both the price of rye and the price of wood for the purpose of calculating the tax for a given tax year. In this situation, the tax will be calculated according to the lower values.

The exercise of powers to introduce tax exemptions and reductions as well as to vary property tax rates is primarily a manifestation of the municipality's tax policy¹¹. It should be stressed, however, that in a situation where the introduced tax preferences constitute support for entities conducting economic activity, they must be granted in accordance with restrictions on state aid resulting from EU law. In practice, tax exemptions granted as the so-called *de minimis* aid or as regional aid for new investments are the most common form of support for entrepreneurs in the scope of real estate tax¹².

¹¹ See more broadly R. Dowgier, *Polityka podatkowa gmin w zakresie opodatkowania nieruchomości* [in:] M.J. Nowak, T. Skotarczak (eds.), *Rynek nieruchomości gminnych w czasie kryzysu i po kryzysie*, Warszawa 2010, pp. 165–177.

¹² More broadly on the subject see R. Dowgier, *Wpływ regulacji dotyczących pomocy publicznej na stanowienie i stosowanie lokalnego prawa podatkowego*, Białystok 2015.

4. Taxes on real estate in Poland – interrelation and characteristics

The property tax system in Poland is based on three taxes: real estate tax, agricultural tax, and forestry tax¹³. From the subjective point of view, each of these taxes may apply to land. As a rule, the tax rate applicable to a given piece of land depends on classification of land in the official register, i.e. the register of land and buildings. Land classified in the register as agricultural land is subject to agricultural tax, while land classified as forest land is subject to forestry tax. Land of other classifications is subject to real estate tax. A practical problem is connected with a validity of the records. In some situations, changes in land use are entered into the register with a delay, which results in faulty taxation of the land and a reduction in the revenue of municipalities on this account. A classic example of such a situation is residential development on agricultural land located within city limits. Such land, pending the change of its classification in the land and buildings register into residential areas, is subject to a very low agricultural tax. It should be emphasized that municipalities, which are the beneficiaries of the revenues from real estate tax do not have any influence on the keeping of the register as this task is performed by the starost.

There is one major exception to this rule – if the land is actually used for business activities, regardless of how it is classified in the land and buildings register, it is subject to real estate tax charged at the highest rates.

The differentiation of the tax burden on land is significant, which results from the manner in which the rates of property tax, agricultural tax, and forestry tax are determined. The Act provides for maximum tax rates, updated annually, which cannot be exceeded. On the other hand, the local councils' decision-making bodies may reduce those rates. The legislator assumed that the tax burden on agricultural and forestry land should be much lower than on land which is subject to real estate tax. These differences are drastic. Assuming the maximum tax rates in force in 2021 for

¹³ An outline of the Polish system of real estate taxation was presented, *inter alia*, by B. Pahl [in:] *Podatki i opłaty lokalne. Teoria i praktyka*, Warszawa 2017.

a plot of land with an area of 1,000 square metres, property tax may amount to approx. PLN 1000, the agricultural tax up to ca. PLN 30 and the forestry tax up to ca. PLN 4.

In case of agricultural and forestry taxes, their amount was linked by the legislator to the rye purchase price or the timber sale price. As a result, these benefits are not classified in the doctrine of tax law as classic property taxes, but as property and income taxes, because they burden the estimated income of owners and certain holders of agricultural land and forests¹⁴. The maintenance of such a tax construction in the system is, it is argued, a consequence of the lack of a concept of taxation of this type of activity¹⁵. In Poland, revenues from agricultural and forestry activities are excluded from income taxation, and agricultural and forestry taxes are to some extent intended as a substitute for these tax considerations. A lack of a political will to include, in particular, an agricultural income in income tax under general rules seems to be one of the reasons for maintaining agricultural tax in its current, very archaic form.

5. Principal structural elements of taxes on the ownership of real property

5.1. General remarks

Assuming for the purpose of further considerations a division of the analysed matter according to the structural elements of the tax, it should be stressed that in many areas real estate tax, agricultural, and forestry tax have common elements. This is a point in favour of drafting of a single act in Poland, which would regulate the taxation of real estate. From a practical point of view of a taxpayer, there are in principle no differences in a sphere of an assessment and collection of these tax. Differences relate primarily to the subject of taxation and to tax rates. In this respect it is

¹⁴ Cf. L. Etel (ed.), *System Prawa Finansowego. Tom III. Prawo daninowe*, Warszawa 2010, p. 310 et seq.

¹⁵ *Ibidem*.

possible to imagine a situation in which with regard to land, which is currently subject to three separate taxes, it would be justified to subject it to one levy, while maintaining differentiated rates for agricultural land, forests and other land.

5.2. Object of taxation

The main difference in the construction of taxes levied with respect to the ownership of real property in Poland is related to the subject of these tax considerations. As it has already been mentioned, real estate tax, agricultural tax, and forestry tax are levied on land, and the application of the relevant benefit depends on its classification in the register of land and buildings. Thus, it is this official register that determines the limits of taxation of land, unless the land is occupied for business activity, in which case it is always subject to real estate tax.

In addition to land, property tax is imposed on buildings and structures. It applies to broadly defined categories of buildings. Normative definitions of these terms are contained in the Act on Local Taxes and Fees. A building is a structure within the meaning of the Construction Law, which is permanently connected to the ground, separated from the space by means of building partitions, and has foundations and a roof. In a nutshell it may be stated that constructions which do not fulfil the characteristics of a building (e.g. squares, towers, chimneys, billboards) are deemed to be structures for tax purposes. Therefore, contrary to the name of the tax, they do not have to constitute real property in the meaning assigned to this concept by the Civil Law¹⁶. In case of structures, they are subject to tax only if they are related to the conduct of business activities, i.e. they are generally in the possession of entrepreneurs. Accordingly,

¹⁶ Pursuant to Article 46 § 1 of the Act of 23 April 1964 – Civil Code (consolidated text: Dz.U. of 2020, poz. 1740, with subsequent amendments) real property includes parts of the earth's surface which constitute a separate object of ownership (land), as well as buildings permanently connected to the land or parts of such buildings, if under special regulations they constitute a separate object of ownership from the land.

the legislator has recognized that non-commercial structures are not subject to real estate tax.

Statutory definitions of such concepts as building, structure and the connection with conducting business activity are so imperfect that over the recent years they have become a source of numerous interpretation problems. In this respect, there is a problem of referencing these definitions to the construction law and the mutual relations in which this branch of law and the tax law remain. Figuratively speaking, a question is whether and to what extent taxation may be determined by non-tax regulations (in the scope of construction law). The indicated area of interest has been subject to a very big jurisprudence of the administrative courts and interest of the literature on the subject¹⁷, as well as of the constitutional court, which has resolved this issue on several occasions. The constitutional objections referred primarily to a lack of a definition of the concepts used for the purposes of property tax, which was confirmed by the Constitutional Tribunal in its judgments¹⁸. However, these rulings were only of an interpretative nature and did not result in eliminating the regulations inasmuch as they were inconsistent with the Constitution of the Republic of Poland. As a consequence, the current interpretation of the notions in question is significantly influenced by legal views stemming from the justifications of the judgments by the Tribunal.

The problem of the precise definition of the subject of taxation continues to be unresolved and it is probably the most important one from the point of view of property taxation in Poland. There seems to be no idea as to what shape the new definitions should take. The basic difficulty in this respect is connected with the effects of the change, which will not be tax-neutral either for taxpayers or for municipalities, the main part of whose revenue comes from the taxation of structures. Thus, a kind of a stalemate

¹⁷ See e.g. L. Etel, R. Dowgier, G. Liszewski, B. Pahl, *Podatki i opłaty lokalne. Komentarz*, Warszawa 2020; W. Morawski (ed.), *Ustawa o podatkach i opłatach lokalnych. Komentarz*, Gdańsk 2013; A.M. Żmijewska, *Opodatkowanie budowni podatkiem od nieruchomości*, Toruń 2020.

¹⁸ Judgments of the Constitutional Tribunal of: 13 September 2011, P 33/09, OTK-A 2011/7/71; 12 December 2017, SK 13/15, OTK-A 2017/85; 13 December 2017, SK 48/15, OTK-A 2018/2; 24 February 2021, SK 39/19), OTK-A 2021/14.

exists in accepting existing definitions, which give rise to interpretation doubts, because of the fear of changing them, which will certainly have an impact on the finances of taxpayers or municipalities.

5.3. Subject of taxation

As a rule, real estate tax, agricultural tax, and forestry tax are imposed on the owners of taxable objects. The legal status of these owners is irrelevant as the laws regulating these tax considerations indicate that the status of the taxpayer may be assigned to natural persons, legal persons (e.g. limited liability companies), and organizational units without legal personality (e.g. general partnerships).

However, there are exceptions to this rule, which are equally valid with respect to real estate tax, agricultural tax, and forestry tax. Firstly, statutes indicate that if there is an owner and an independent holder of a taxable object, the tax obligation is imposed on an autonomous possessor. An autonomous possessor is a person who is not an owner, but who disposes of an object as an owner. Secondly, with regard to land, the obligation is imposed on perpetual usufructuaries. Perpetual usufruct is a specific form of holding real property which is the property of the State Treasury or a local government unit. Thirdly, the taxpayer is any holder of taxable objects which are the property of the abovementioned entities, provided that he/she has an agreement concluded, in principle, with the owner. This means that transfer agreements concluded with entities other than the State Treasury or a local government unit do not transfer the obligation to pay tax. A derogation from this principle has been introduced only with regard to agricultural tax, where the taxpayer is also the owner of an agricultural holding which was transferred in connection with obtaining retirement benefits from agricultural insurance.

As a rule, therefore, taxes related to the ownership of real estate do not always burden the entities that actually utilize them. In fact, generally it has been assumed that holders are charged only when they are in a possession of objects of taxation constituting the property of the State Treasury or of a local government unit.

It should also be stressed that the tax obligation is imposed on taxpayers jointly and severally in situations in which objects of taxation are subject to joint ownership or joint possession. Such a construction of a liability for tax, taken from the civil law, means that it is indivisible, and the tax creditor may demand payment of the whole or part of the tax from all taxpayers jointly, from several of them or from each of them separately, and satisfaction of the creditor by one of the taxpayers releases the others. In practice, this construction of liability raises a number of practical problems both at the stage when the tax liability arises and at the stage when it is fulfilled.

5.4. Basis of taxation

With regard to land, real estate tax, agricultural tax, and forestry tax are calculated on its area. Against this background, a specific solution related to the revenue aspect of agricultural tax is its calculation on the basis of the actual physical area or the area calculated in the so-called conversion hectares. This is an artificial value. It depends not only on the area of land, but also on its class and location¹⁹. The assumption is that the higher the potential of the land in the context of its use for agricultural activity is, the higher the conversion factors used to calculate its area for the purpose of assessing agricultural tax is. Therefore, the best land, located in prime areas of the country, has the highest conversion rates, and poor land – the lowest. This reflects to a certain extent a potential profitability which could be obtained from an agricultural holding. The very notion of an agricultural holding for the purposes of agricultural tax has also been defined by reference to an area standard. These are areas of land exceeding 1 ha or 1 conversion ha. The possession of an agricultural holding translates into certain privileges with regard to agricultural tax – starting with a lower tax rate and the possibility of benefiting from certain categories of tax exemptions.

¹⁹ See more broadly L. Etel, B. Pahl, M. Popławski, *Podatek rolny. Komentarz*, Warszawa 2020, pp. 142–145.

As regards buildings, which are subject to real estate tax, the tax is calculated on their surface area. Therefore, just as in the case of land, the tax consideration is detached from the value of the subject of taxation, which is a fundamental shortcoming of the Polish system of real estate taxation. Property tax is assessed on the basis of the surface area of the land or building, and not on their value. As a result, in principle, land and buildings in large cities are taxed at the same level as in rural areas, despite the flagrant discrepancy in their value.

The only situation in which real estate tax in Poland is based on the value of the taxable item, and thus has the characteristics of a cadastral tax, is the taxation of structures. Since structures are taxed only if they are connected with conducting business activity, as a rule, their purchase costs (as depreciation write-offs) are entered by entrepreneurs as business activity costs in the records kept for income tax purposes. This value, a so-called depreciation value, constitutes the basis for assessing real estate tax, and only in case when the taxpayer does not depreciate the structure, the basis for assessing real estate tax will be a market value. It must be stressed that the adopted model for determining the tax base for structures assumes that the tax base remains unchanged over time despite a decrease in the value of the taxable item. Such a model is largely misunderstood by taxpayers because under the model real estate tax is paid on the initial value of the structure even though over the years its value has been significantly reduced owing to wear and tear.

5.5. Tax rates

As it has already been mentioned, the amount of real estate, agricultural, and forestry tax rates is largely influenced by municipal councils. With respect to the former, the Act on Local Taxes and Fees specifies the maximum rates for a given tax year with division into particular categories of taxable objects. In case of land, the legislator has distinguished four such categories (e.g. for land related to conducting business activity, under water, other). In the case of buildings, five categories with assigned rates have been provided for (*inter alia*, buildings related to business activity,

residential, or occupied for health care services). The rates for land and buildings are of a specific nature and are differentiated. Business premises are taxed the highest and residential premises the lowest rates. The disproportion in this respect is significant, especially in case of buildings (commercial buildings are taxed at a rate more than 20 times higher than residential buildings). In case of structures, on the other hand, law provides for only one maximum rate expressed as a percentage of the value of the structure – 2%.

The above rates are subject to annual indexation in line with the inflation rate.

The municipal council by way of a relevant resolution is obliged to determine the rates for individual categories of taxable objects for a given tax year within the limits set out by the law. The council may also differentiate the rates within the statutory categories of taxable objects.

In case of agricultural and forestry taxes, the annual rates depend, as already mentioned, on the annually determined price of rye or wood. A lower agricultural tax rate equivalent to 2.5 q of rye is payable on land constituting an agricultural holding, i.e. with an area exceeding 1 ha or 1 conversion ha. Agricultural land of a smaller area is taxed at the rate equivalent to 5 q of rye. In case of forestry tax, on the other hand, the rate is equivalent to the price of 0.220 m³ of wood per 1 ha of forest, and for forests forming part of nature reserves and national parks it is reduced by 50%²⁰.

The municipal council may reduce both the price of rye and the price of timber for a given tax year, thus reducing the amount of the agricultural or forestry tax in its territory. However, this is not an obligation. If the council does reduce the rate, the tax is calculated according to prices resulting from relevant announcements of the President of the Central Statistical Office.

²⁰ See more broadly L. Etel, B. Pahl, E. Bobrus-Nowińska, *Podatek leśny. Komentarz*, Warszawa 2020, pp. 134–140.

5.6. Payment method and conditions

As a rule, the tax obligation with respect to real estate, agricultural, and forestry tax arises as of the beginning of the month following the month in which the circumstances justifying its arising occurred (e.g. acquisition of real estate), and expires at the end of the month in which the circumstances justifying its cessation occurred (e.g. sale of real estate). The exception is a situation in which a new building or structure is constructed – in this case the so-called tax holiday is granted until the end of the year in which their construction or use was commenced. Thus, real estate tax is paid on them from the beginning of the following year.

The principles of tax assessment are common to all taxes. If the taxpayers are natural persons, the tax is assessed for them in a decision issued for a given tax year by the competent head of a commune, a governor (a mayor). The basis for issuing such a decision is the data provided by the taxpayer in the information submitted for a given tax. Issuing tax assessment notices on an annual basis is quite labour-intensive and costly for municipalities, especially in case of small amounts of agricultural or forestry tax. In this respect some solutions exist to improve an efficiency of municipalities (e.g. a possibility of issuing one joint decision for two or three taxes and exemption from the tax assessment obligation in an amount lower than the costs of delivering the decision), but they do not seem to be sufficient.

Other categories of taxpayers, on the other hand, are obliged to calculate the tax liability on their annual return. In their case, a tax authority issues a decision only if they have not fulfilled this obligation or have done it in an incorrect manner. It has been proposed that this method of settling taxes on the ownership of real estate should also cover natural persons, in order to reduce the expenses of municipalities on tax assessment services. To date, however, no response to this proposal has been given²¹.

The taxes under review are annual taxes and they can be paid in instalments. For taxpayers who are natural persons, there are four instalments due by 15 March, 15 May, 15 September, and 15 November of the

²¹ See L. Etel, R. Dowgier, *Podatki i opłaty ...*, p. 124.

tax year. Other taxpayers pay real estate tax and forestry tax in monthly instalments, and agricultural tax on the same dates as natural persons.

In addition to the personal payment of taxes, the legislator also allows municipal councils to introduce the collection of taxes from taxpayers who are natural persons through collectors. These are persons authorized to collect the tax from the taxpayer and transfer it to the account of the tax authority. The taxpayer may, but is not obliged to, make use of this tax payment facility, which is gradually losing its relevance as a result of the spread of non-cash transactions.

5.7. Exclusions, exemptions and reliefs

In the area of real estate taxation, a broad catalogue of tax preferences exists in the form of tax exclusions, exemptions, and reliefs. First of all, it should be emphasized that apart from the statutory exemptions, municipal councils are able to introduce other tax exemptions and reliefs of their own by way of a relevant resolution. Secondly, it is characteristic that the legislator's right to introduce, by way of a law, solutions reducing municipalities' own revenues is, as a rule, not linked to the compensation for the losses. Only, by way of exception, such compensation is granted with respect to two statutory exemptions from real estate tax. In practice, this causes objections from municipalities that lose their revenue as a result of the introduction by the Parliament of new statutory exemptions or an extension of a scope of the existing ones.

In the area of real estate tax, both exclusions from taxation and exemptions occur. The common feature of these solutions, in the procedural aspect, is that in order to benefit from them, a taxpayer does not need to submit any application, but merely fulfils statutorily determined conditions. In order to verify the right to the exemption, taxpayers are obliged to submit information and tax declarations, in which they list items subject to taxation. However, no such obligation exists in case of exclusions from taxation.

Preferences in this tax are of a different nature. Exclusions from taxation apply e.g. to real estate occupied for the needs of local government

units or land occupied for public roads. In turn, tax exemptions result both from the Local Taxes and Fees Act itself (almost 30 exemptions covering, *inter alia*, railway, airport and harbour infrastructure, real estate occupied for educational purposes and entered in the register of historic monuments), and from special acts (covering, *inter alia*, real estate occupied for religious purposes).

Exemptions similar in their structure to property tax are included in the Forestry Tax Act. Their application does not require a submission of an application by the taxpayer, but the items covered by them are indicated in the forest tax returns and information. The catalogue of exemptions is not extensive (12 items) and includes, among others, forests with a tree stand under 40 years old or forests entered in the register of historic monuments.

Agricultural tax preferences are the most complex. Firstly, in many cases their implementation depends on the submission of a relevant application and may be effected on the basis of a decision issued by a tax authority. Secondly, in addition to exemptions, tax reliefs have been envisaged consisting of, e.g. a reduction of the agricultural tax by the amount of investment expenditures made in connection with construction or modernization of livestock buildings or purchase and installation of equipment related to generation of energy from renewable sources. The catalogue of statutory exemptions is extensive (over 20 items) and includes, e.g. agricultural land of poor suitability for agricultural production, entered in the register of historic monuments, or acquired for purposes of establishing or expanding an existing agricultural holding.

6. Conclusions

As a conclusion to this paper it should be stated that in Poland the taxes levied on the ownership of real estate are of significant importance from the point of view of the budgets of municipalities. The most important role in this respect is played by real estate tax, which results from its objective scope that covers not only land, but also buildings and structures. Of much lesser fiscal importance is the agricultural tax, which is related to, among others, the broad catalogue of exemptions and reductions in this

consideration, whereas the forestry tax is negligible in the context of the revenues of municipalities.

Polish system of real estate taxation based on the area criterion is outdated comparing it to other European countries. Only in a small part, with regard to property tax calculated on structures, does the tax depend on the value of the property.

Taxation of real estate is an area that despite social and economic changes has not seen a thorough reform. Changes introduced in recent years in this area were of a cosmetic nature and were mainly a response to practical problems signalled by the jurisprudence of administrative courts against the background of the interpretation of acts regulating real estate, agricultural, and forestry tax. The low quality of the regulations in force is also evidenced by the judgments of the Constitutional Tribunal, which has repeatedly examined the provisions of the Act regulating real estate tax, indicating their interpretation allowing for their recognition as compliant with the Constitution. These interpretative judgments are of significant importance for the assessment and collection of real estate tax.

The reform of property taxation in Poland requires a simultaneous modification of the taxation of income from agricultural and forestry activities. Currently, the lack of inclusion of these revenues in the income tax is explained by the property and revenue nature of the agricultural and forestry tax.

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