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Polish tax system overview

Polski system podatkowy w zarysie

Abstract. The article analyses the “tax system” concept. The authors have mainly referred to the views of the Polish tax law doctrine. The analysis also covers issues on public levies, with a particular emphasis on taxes, their most important components. The article also presents issues concerning the classification of taxes and their structure.

Keywords: tax system; taxes.

Streszczenie. W artykule dokonano analizy pojęcia „system podatkowy”. Autorzy przede wszystkim odwołali się do poglądów polskiej doktryny prawa podatkowego. Analizie poddano także problematykę dotyczącą danin publicznych, ze szczególnym uwzględnieniem podatków, będących najważniejszymi ich elementami. W artykule przedstawione zostały także zagadnienia dotyczące klasyfikacji podatków i ich elementów konstrukcyjnych.

Słowa kluczowe: system podatkowy; podatki.

1. Introduction

There are many types of taxes in Poland. This, however, does not automatically mean that we are dealing with a coherent tax system. The aim of the study is to determine, on the basis of the currently binding legal regulations and doctrine views, what is the Polish tax system and what are its components. The authors will also analyse the concept of “public levies” and one of its most important elements, i.e. taxes.

2. Tax system – the concept and types

According to R. Mastalski, the system is a set of interconnected and interdependent components, forming a certain whole. The legal system – in the most general sense – is (assumedly) a complete and orderly standardization of specific areas of social life. In the case of tax law, the system is an interlinked set of rules governing the social relationship between the state and the entity, involving the transfer of cash in an equivalent manner between those entities¹. Z. Ofiarski writes in a similar manner, according to which the system is a specific set of internally ordered components formed on the basis of previously adopted assumptions. The individual components form the internal structure of the system, while the tax system is a set of taxes in force at a given time in a given country². B. Brzeziński stresses that we are dealing with a tax system (system of taxes and charges) when the state imposes many taxes and charges, and the opposite of the tax system would be to implement the concept of a single tax³. On the other hand, according to R. Wolański, “The tax system is understood as a set of mutually integrated taxes in force in a given country at a given time. To form a system, taxes must be properly structured in relation to each other; they must be complementary and not contradictory, and must not result in multiple taxation of the same source”⁴.

¹ R. Mastalski, *Prawo podatkowe*, Warszawa 2009, p. 30.

² Z. Ofiarski, *Prawo podatkowe*, Warszawa 2006, p. 31.

³ B. Brzeziński, *Prawo podatkowe. Zagadnienia teorii i praktyki*, Toruń 2017, p. 139.

⁴ R. Wolański, *System podatkowy*, Warszawa 2003, pp. 48–49.

R. Mastalski indicates that the term “tax system” is used much more often than “tax law system” in the doctrine and practice of taxation. But these concepts are not the same. “First of all, not all legal norms regulating taxation are included in the tax law. Examples include regulations in the field of penal fiscal law or enforcement (forced execution of tax receivables), belonging to other branches of law (criminal law, administrative law). What is even more important is that the tax system, as a whole, is complex and involves a variety of political, economic, and social objectives, meaning that it cannot be equated with a system of tax law alone”⁵.

B. Brzeziński rightly notes that “The multiplicity of taxes does not yet make the system, but only a set of taxes. A system of taxation can be talked about when there are system-specific links between taxes – in this case, particularly economic and legal associations”⁶. R. Mastalski also believes that the taxes in force in a given country are an effect of their historical development and the political, economic and social changes taking place in that country. He also points out that “Consequently, a kind of tax ‘conglomerate’ is often created, instead of a system. This is largely due to the fact that the tax system is an important element of social life and is influenced by various factors related to the functioning of society”⁷. This is also indicated by Z. Ofiarski pointing out that it often happens that the tax system is the result of various actions being a compromise between ambitious assumptions and real possibilities. This is also the result of tax reforms undertaken at different times and not always completed. It is therefore difficult to identify the ideal model for a tax system that is universal and applicable in each country”⁸.

When creating a tax system, it is important that taxation is not only considered from an instrumental and technical point of view, but that the creators of the tax system see the role of taxation in a society⁹.

⁵ R. Mastalski, *Prawo...*, p. 31.

⁶ B. Brzeziński, *Prawo ...*, p. 140.

⁷ R. Mastalski, *Prawo...*, p. 31.

⁸ Z. Ofiarski, *Prawo ...*, pp. 31–32.

⁹ R. Mastalski, *Prawo...*, p. 32.

According to B. Brzeziński, the tax system concept is present in the source literature in two views:

1. as a set of taxes in force in a given country at a given time, and
2. as a reference to the characteristics of the different groups of structurally similar tax systems; in this sense, the tax systems of each country are grouped together with regard to their different characteristics¹⁰.

Similarly, R. Mastalski believes that two tax systems should be taken into account:

1. a historical system, which consists of all the taxes applicable in a given country, and
2. a rational (model) system, based on certain general tax prerequisites (principles) taking into account political, economic, social and legal aspects of taxation¹¹.

According to R. Mastalski, the historical tax system “is a kind of compromise between a rational system and the political and economic conditions existing at the time of its formation or changes. There are, however, some general assumptions of a rational system, resulting from the principles of functioning of democratic states with market economies, which should always be taken into account when constructing a tax system. These assumptions result from the fiscal, economic, and social objectives of taxation and its technical and legal conditions, i.e. the possibility of including the assumed objectives of taxation in forms appropriate to the law and taking into account the applicable law”¹².

One should agree with A. Gomułowicz that the starting point for shaping a tax model (a tax system vision) should involve solutions adopted in the Constitution and primarily concerning the basic taxation principles, as well as property protection forms. The author points out that the basic constitutional principles, according to which the tax burden is based, should include:

1. the principle of the statutory nature of tax liability;
2. the principle of legalism;

¹⁰ B. Brzeziński, *Prawo ...*, p. 139.

¹¹ R. Mastalski, *Prawo...*, p. 33.

¹² R. Mastalski, *Prawo...*, p. 33.

3. the principle of universality;
4. the principle of justice;
5. the principle of equal taxation, and
6. the principle of stability¹³.

It should be stressed that the current tax system in Poland does not operate in a legal vacuum and depends on many factors. “On one hand, the shape of tax legislation has been influenced over the last quarter of a century by fiscal needs, the election promises of political parties, the requirements of the Polish Constitution decoded in the jurisdiction of the Constitutional Tribunal, or the requirements of Commonwealth legislation, treaties and secondary legislation. On the other hand, the lack of a tax strategy which would result from a substantial discussion on the shape of the tax system in a long-term perspective, as well as the adopted model of tax constituting, which exposes the role of government bodies, limiting the role of the parliament – the Parliament and the Senate – to purely formal aspects, consisting in the adoption of government proposals with possible legislative amendments without a serious substantive debate on the content of the submitted draft tax laws, remained not without significance for the tax law. This has negative consequences both for the tax system, understood as the totality of taxes in force at one time in a given territory (in a given country), arranged logically in legal and economic terms, and for the exercise of tax law by the public administration and taxpayers, tax withholders, and collectors, as well as the organisation of the administration responsible for tax collection”¹⁴. It is also important that a characteristic feature of tax law systems is the rapid expansion of those instruments which serve the fulfilment of the economic and non-economic tasks of a state. As a result, tax regulations cover new socio-

¹³ A. Gomułowicz [in:] A. Gomułowicz, J. Małecki, *Podatki i prawo podatkowe*, Warszawa 2002, p. 77.

¹⁴ H. Dzwonkowski, J. Kulicki, *Wprowadzenie* [in:] H. Dzwonkowski (ed.), J. Kulicki (ed.), *Dylematy reformy systemu podatkowego w Polsce*, Warszawa 2016, p. 9.

economic phenomena and go far beyond the framework of traditionally understood public finances and taxes¹⁵.

B. Brzeziński concludes the considerations on the tax system classification in the following way: “The tax system classifications found in the literature are very diverse – as are the possible classification criteria. It should be noted that this issue is not relevant for the tax law”¹⁶.

3. Taxes as part of public levies

There is no doubt that taxes in Poland are the most important component of public levies¹⁷. The Constitution of the Republic of Poland of 2 April 1997¹⁸ in Article 217 indicates that the imposition of taxes, other public levies, the determination of entities, subjects of taxation and tax rates, as well as the rules for granting reliefs and cancellations and the category of entities exempt from taxes is effected by way of legislation. On a literal interpretation, it is concluded that the constitutional legislator classifies taxes as public levies, but because of their importance, it mentions them “by name” as the only public levy before “other levies”. The literature indicates that Article 217 of the Constitution of the Republic of Poland includes the principle of the power to levy taxes. According to A. Bień-Kacała “this is a very important rule of the social and economic system concerning the levy system structure. It means that the imposition of public levies falls within the competence of the legislator, who should, when introducing a levy, determine its essential components”¹⁹. The author also

¹⁵ J. Glumińska-Pawlic, *Pożądaný kierunek zmian (reformy) obecnego modelu tworzenia prawa podatkowego* [in:] H. Dzwonkowski (ed.), J. Kulicki (ed.), *Dylematy reformy systemu podatkowego w Polsce*, Warszawa 2016, pp. 113–114.

¹⁶ B. Brzeziński, *Prawo...*, p. 140.

¹⁷ See e.g. J. Wantoch-Rekowski, *O stosowaniu Ordynacji podatkowej do należności z tytułu składek na ubezpieczenia społeczne* [in:] J. Głuchowski (ed.), *Współczesne problemy prawa podatkowego. Teoria i praktyka. Tom I. Księga jubileuszowa dedykowana Profesorowi Bogumiłowi Brzezińskiemu*, Warszawa 2019, p. 535.

¹⁸ Dz.U. [Polish Journal of Laws] of 1997 No 78, poz. [item] 483 with subsequent amendments.

¹⁹ A. Bień-Kacała [in:] Z. Witkowski (ed.), A. Bień-Kacała (ed.), *Prawo konstytucyjne*, Toruń 2015, pp. 657–658.

indicates that types of public levies include: “taxes, fees, surcharges and duties, and other intermediate and mixed categories”²⁰.

According to Z. Ofiarski, public levies have a general purpose, i.e. they serve to finance all public services. He does, however, allow for the existence of such levies, which serve to finance one type of public service, and refers to, *inter alia*, an example of social security contributions²¹.

Referring to the doctrine, it can be emphasized that B. Brzeziński, who distinguishes 4 basic categories of public levies (taxes, fees, surcharges, and duties), indicates that they also include “various types of obligatory contributions for purposes considered public. However, they are treated as legal constructs that are different from the remaining legal constructs mainly due to the fact that the receipts from them usually do not reach the budget, but are organised in a different way (e.g. they feed the special purpose funds)”²². B. Brzeziński claims that a “public levy, having all the characteristics of a tax, will not always be named a tax by the legislator. Other names may be used for various reasons (payment, relief, add-on, interest rate, etc.); however, whether a particular public levy is a tax is determined by its characteristics and not by its name. On the other hand, however, it must be stressed that the question of what public levy is a tax in the legal sense is determined by the law and not by theoretical divisions or classifications”²³.

4. Classification of taxes in Poland

The basis for classification should be that which can be clearly distinguished, and at the same time it is desirable that such a basis should have its inherent meaning²⁴. Importantly, the classification consists of separating the characteristics of a given set of phenomena, subjects or persons,

²⁰ Ibidem, p. 661.

²¹ Z. Ofiarski [in:] Z. Ofiarski (ed.), *Ustawa o finansach publicznych. Komentarz*, Warszawa 2019, p. 105.

²² B. Brzeziński, *Prawo...*, p. 129.

²³ Ibidem, pp. 132–133.

²⁴ M. Kambe, *On the Classification on Taxes. Professor Brauer's New Classification and My Own*, “Kyoto University Economic Review” 1929, No 4(1), p. 4.

and should therefore correspond to the adopted criteria for classification²⁵. In addition, the sum of the phenomena defined in a particular subset must be equal to the number of phenomena of that subset and must be separable, which means that the subset expressed must not include common phenomena²⁶. Moreover, correct classification should guarantee uniform, well-defined content and data, while categorisation involves combining or dividing the data obtained according to their common values²⁷. Taxes can be classified according to various criteria, such as the subject of taxation, the tax revenue distribution between different budgets, or the type of a tax rate. However, as B. Brzeziński points out, the classification criteria are sometimes considered questionable, but they are sometimes used in the tax law to organise its specific structures²⁸.

Indeed, the classification of taxes has economic value because some of the classification characteristics simultaneously determine the effects caused by taxes distinguished by these characteristics in the economy²⁹. In Italy, for example, it is sometimes proved that the progressive theoretical evolution of the legal method of examining taxes has not received adequate attention from the legislator when transposing the principles which were developed in the scientific field to ensure a tax system which is coherent with economic objectives and which strikes a balance between the needs of public finances and the fundamental rights of the citizen called upon to fulfil his/her tax obligations³⁰.

However, in principle, there are three groups of taxes, i.e. income taxes, turnover (consumption) taxes, and wealth taxes³¹. This is linked to the evident standard and characteristic factual and legal conditions – which are subject to taxation – during the economic process³². Revenue

²⁵ J. Apanowicz, *Metodologia ogólna*, Gdynia 2002, p. 94.

²⁶ *Ibidem*, p. 94.

²⁷ *Ibidem*, p. 94.

²⁸ B. Brzeziński, *Wprowadzenie do prawa podatkowego*, Toruń 2008, p. 40.

²⁹ *Ibidem*, p. 40.

³⁰ G. Tinelli, *Instituzioni di diritto tributario. I principi generali*, Vicenza 2016, p. 12.

³¹ So: B. Brzeziński, *Prawo ...*, p. 137; J. Wantoch-Rekowski, W. Morawski, *Podstawy prawa finansów publicznych. Podręcznik akademicki*, Toruń 2019, p. 260.

³² A. Gomułowicz, *Pojęcie podatku* [in:] A. Gomułowicz, D. Mączyński, *Podatki i prawo podatkowe*, Warszawa, p. 161.

taxes³³, the growth and superiority of which in the tax system as a rule indicate a low level of economic development of a given country, are also indicated³⁴. Moreover, different criteria for the tax classification are also known³⁵.

As regards a more detailed discussion of the above mentioned groups of taxes, first of all, the basis of income taxes should be the generation of income, understood as a surplus of income over costs. A common source of income is, for example, a remuneration or operating revenues³⁶. However, with regard to the definition of costs of revenues, a reference should be made to the regulations of individual tax laws. There are two main income taxes in Poland, i.e. a personal income tax and a corporate income tax. In practice, however, there are sometimes controversies in the area of income taxes, for example, regarding the determination of the place of an income generation by non-Polish tax resident entities in some specific cases³⁷.

Revenue taxes are levied on all revenues earned by a given entity, without deducting the costs of their generation. This is a simple form of taxation, but convenient for the budget. In this respect, a distinction can be made between the turnover tax on goods and services and the gambling and lottery tax³⁸.

Consumption taxes are levied on traded products and services by including them in the price of the product and service³⁹. These include a turnover tax, a value added tax, an excise duty, and a gambling and lottery tax.

³³ A. Krajewska, *Podatki w Unii Europejskiej*, Warszawa 2010, p. 64.

³⁴ A. Gomułowicz, *Pojęcie podatku...*, p. 162.

³⁵ See M. Kalinowski, *Rodzaje podatków i ich klasyfikacja oraz systemy podatkowe* [in:] L. Etel (ed.), *System prawa finansowego*, vol. III, Warszawa 2010, pp. 67–87.

³⁶ See M. Casey Murdock, *Tax Insight For Tax Year 2013 and Beyond*, Berkeley, CA, 2013, p. 26.

³⁷ M. Toruński, *Dochody osiągnięte na terytorium Rzeczypospolitej Polskiej w rozumieniu art. 3 ust. 2 ustawy o podatku dochodowym od osób prawnych*, „Toruński Rocznik Podatkowy” of 2013, p. 168.

³⁸ A. Krajewska, *Podatki w Unii...*, p. 64.

³⁹ *Ibidem*.

Wealth taxes, on the other hand, are paid on the capital held and on the transfer of property rights. The former include a property tax, an agricultural tax, a forest tax, and a vehicle tax, while the latter are, for example, taxes on inheritance and donations⁴⁰.

Taxes can also be divided into direct and indirect. Contrary to appearances, this division is made according to various criteria⁴¹. However, direct taxes may be considered to be those which, by their structure, directly relate to an income while making it their subject, since the fundamental objective of the tax is that the statutory body takes over part of the income generated by taxpayers⁴². On the other hand, indirect taxes should be considered to be those which reach to other phenomena as the subject of taxation, in a way concealing the link between tax and an income⁴³.

According to another criterion, i.e. by entity, one can distinguish between personal income taxes and corporate income taxes. The division of taxes can also be made into state and local government taxes, as well as federal taxes in federal countries⁴⁴. The distinction between personal and material taxes, on the other hand, refers to the criterion of the importance of personal characteristics of the taxpayer for taxation⁴⁵.

The Polish tax system distinguishes, in particular, between a personal income tax and a corporate income tax, as well as a value added tax, an excise tax, a tax on civil law transactions, and local taxes, i.e. a property tax, an agricultural tax and a forest tax, a vehicle tax, or tax on inheritance and donations, and other.

5. Tax components

The tax components are the invariable elements that make up the legal institution of the tax⁴⁶. The tax components may include: the tax entity,

⁴⁰ Ibidem.

⁴¹ B. Brzeziński, *Prawo ...*, p. 136.

⁴² Ibidem, p. 137.

⁴³ Ibidem.

⁴⁴ A. Gomułowicz, *Pojęcie podatku ...*, p. 161.

⁴⁵ B. Brzeziński, *Prawo ...*, p. 137.

⁴⁶ B. Brzeziński, *Prawo ...*, p. 145.

the subject of the tax, and the tax rates. Most often these are also the tax basis, tax appreciation, tax relief, and tax exemptions⁴⁷, as well as payment conditions⁴⁸. W. Miemiec and P. Borszowski aptly point out that “Several components of the legal construct of the tax can be identified, but their proper qualification is in principle a matter of convenience, as it is a division into basic or complementary or self-contained and dependent elements”⁴⁹.

In the doctrine there is also another term for the tax components – W. Wójtowicz uses the term “tax structure”⁵⁰.

A tax entity is considered to be the one who is legally obliged to pay the tax⁵¹. Apart from the taxpayer, tax entities are also tax withholders, debt collectors, legal successors of taxpayers, and third parties responsible for taxpayers’ tax obligations⁵².

A taxpayer is sometimes defined as any taxable person, with general definitions in national or international law being intentionally broad or merely implicit⁵³. However, one or more persons may be considered to be subjectively liable for the tax⁵⁴. Indeed, it is impossible to indicate that only a natural or juridical person is considered to be a taxpayer, as the above definitions also apply to partners in a civil partnership, or spouses. In that regard, it is appropriate to quote a fair distinction made by H. Litwińczuk between a taxable person in the formal sense, who is legally obliged to pay the tax, and a taxable person in the material sense, who, for example, at the time of acquisition of goods and services, was liable for

⁴⁷ J. Wantoch-Rekowski, W. Morawski, *Podstawy...*, p. 246.

⁴⁸ H. Litwińczuk, *Prawo podatkowe podmiotów gospodarczych*, Warszawa 1996, p. 13.

⁴⁹ W. Miemiec, P. Borszowski [in:] P. Borszowski (ed.), *Prawo podatkowe z kazusami i pytaniami*, Warszawa 2018, p. 26.

⁵⁰ W. Wójtowicz [in:] W. Wójtowicz (ed.), *Prawo podatkowe – część ogólna i szczegółowa*, Warszawa 2009, pp. 9–18.

⁵¹ H. Litwińczuk, *Prawo podatkowe...*, p. 13.

⁵² B. Brzeziński (ed.), A. Olesińska (ed.), *Prawo finansów publicznych*, Toruń 2017, p. 236.

⁵³ R. Sanz-Gómez, *Taxpayer* [in:] Bartolini A., Cippitani R., Colcelli V. (eds) *Dictionary of Statutes within EU Law*, Cham 2019, p. 560.

⁵⁴ M. Schaper, *Tax Law* [in:] Hage J., Waltermann A., Akkermans B. (eds) *Introduction to Law*, Cham 2017, p. 260.

the tax⁵⁵. Interestingly enough, for example, the tax legal entity was once ascribed to an artificial creation in the form of an asset, the so-called unclaimed succession⁵⁶. According to the Article 7 § 1 of the Act of 29 August 1997 – Tax ordinance⁵⁷, the taxpayer is a natural person, a juridical person, or an organizational unit without legal personality, which is subject to tax obligation under the tax laws. However, the legislator has stipulated that tax laws may establish taxpayers other than the above mentioned entities.

Each EU Member State takes into account different criteria for designating a natural person as a taxpayer, but since they share a common legal culture, most of the elements relating to the importance of the taxpayer do not vary from country to country⁵⁸. Moreover, the taxpayer is the main legal relationship entity in taxes, and the tax administration can be distinguished as the second one⁵⁹. For example, as far as the VAT liability is concerned, it is not sufficient that a registered VAT taxable person has performed a transaction as it is possible that the seller was not in this role in the specific transaction⁶⁰. Moreover, it is also worth referring to the Treaty on the Functioning of the European Union, which contains regulations that define the limits of the tax authorities of individual Member States, and also prevent these countries from creating a disturbance in the free movement of goods between them⁶¹. According to the Article 65(1) of the Treaty on the Functioning of the European Union⁶², the free movement of capital does not preclude the application of national rules “which distinguish between taxpayers who are not in the same situation with regard to their place of residence or place of capital investment”.

⁵⁵ H. Litwińczuk, *Prawo podatkowe...*, p. 13

⁵⁶ A. Olesińska, *Polskie prawo podatkowe. Zarys systemu*, Toruń 2009, p. 31.

⁵⁷ Dz.U. of 2019 poz. 900 with subsequent amendments.

⁵⁸ R. Sanz-Gómez *Taxpayer...*, p. 560.

⁵⁹ See A.S. Hornby, *Oxford Advanced Learner's Dictionary of Current English* (7th edn Oxford University Press, 2005), p. 1517.

⁶⁰ J. Matarewicz, *Ustawa o podatku od towarów i usług*, Warszawa 2017, p. 199.

⁶¹ B. Brzeziński, M. Kalinowski (ed.), *Prawo podatkowe Unii Europejskiej*, Gdańsk 2017, p. 41.

⁶² Dz.Urz. UE, C 326/47.

Reference should also be made to entities which are practically responsible for some kind of an intermediation between the taxpayer and the tax authority, i.e. payer and collector. A natural person, a juridical person, or an organizational unit without legal personality, which is obliged under the tax law to calculate and collect tax from the taxpayer and pay it to the tax authority in due time, shall be considered a payer. In turn, a collector is a natural person, a juridical person or an organizational unit without legal personality, obliged to collect tax from the taxpayer and pay it to the tax authority in due time.

Tax authorities are also regarded as tax entities. Although the Tax Ordinance does not define this concept, it can be considered that the tax authority is an entity representing a statutory body competent to perform activities relating to the imposition and the collection of taxes⁶³. What is important is that the above mentioned bodies have a specific material competence – the type of taxes to be levied and collected, the local competence – territorial range activity and the functional competence – the role of the body of first instance, or appeal body⁶⁴. It is worth noting that there are two types of tax authorities in Poland, i.e. state and local government. In Poland, there is currently a National Tax Administration, which is an authority of both the treasury and the customs administration. The local government tax administration is also separated. As regards the state tax authorities which form the National Tax Administration, one should indicate, firstly, the head of the tax office or the head of the customs and tax office as the body of first instance, and secondly, the director of the tax administration chamber as an appeal body against the decision of the head of the tax office or the head of the customs and tax office, respectively, or as the body of first instance on the basis of separate provisions, and moreover, as an appeal body against the decision issued by that body in the first instance⁶⁵. The literature indicates that nowadays, in

⁶³ B. Brzeziński, A. Olesińska, *Podstawowe instytucje ogólnego prawa podatkowego* [in:] W. Nykiel, (ed.), M. Wilk (ed.), *Zagadnienia ogólne prawa podatkowego*, Łódź 2014, p. 19.

⁶⁴ *Ibidem*.

⁶⁵ J. Wantoch-Rekowski, W. Morawski, *Podstawy...*, pp. 272–273.

countries with a market economy, the issue of public levies (both in the sphere of public levies management and executive functions) is under the unified management of the Minister of Finance, which is the case in almost all EU countries, as well as in the USA⁶⁶.

The subject of the tax is what the tax is paid on⁶⁷. Furthermore, it is a factual or a legal phenomenon on which a tax obligation arises by law⁶⁸. According to A. Kostecki, the subject of taxation is part of the facts covered by the hypothesis of a tax legal standard, which determines the behaviour of a tax entity, and what is more, in principle, also the subject of this behaviour in the form of tangible or intangible goods⁶⁹. In addition, the occurrence of the situation in the part corresponding to the subject of taxation is deemed to result in the establishment of a legal and tax relationship, which can be defined as a first-degree relationship and, at the same time, as a tax liability⁷⁰. As indicated by C. Kosikowski, the subject of the tax is “the situation (behaviour or event) with which the act links the creation, alternation, or termination of the tax obligation (the so-called tax facts)”⁷¹. Next, referring to the normative approach to the subject of tax, M. Kalinowski distinguished three groups in this respect. The first group covers the tax subject which is accounted for in an objectified manner, which is the case with respect to a personal income tax and a corporate income tax where an income is the tax subject, and with respect to a property tax, an agricultural tax, a forest tax, or a vehicle tax, where certain assets are the tax subject⁷². The second group includes a legislative procedure consisting in recognising specific events as the subject of the tax applied particularly in the regulations governing the value added tax, an excise duty, or gambling and lottery tax⁷³. The third group of norma-

⁶⁶ J. Kulicki, *Administracja danin publicznych w Polsce*, Warszawa 2014, pp. 46–47.

⁶⁷ B. Brzeziński, A. Olesińska (ed.) *Prawo finansów...*, p. 238.

⁶⁸ H. Litwińczuk, *Prawo podatkowe...*, p. 14.

⁶⁹ A. Kostecki, *Elementy konstrukcji instytucji podatku* [in:] M. Weralski (ed.), *System instytucji prawno-finansowych PRL*, vol. III, Wrocław 1985, pp. 190–191.

⁷⁰ *Ibidem*.

⁷¹ C. Kosikowski, *Ustawa podatkowa*, Warszawa 2006, p. 86.

⁷² M. Kalinowski, *Pojęcie przedmiotu podatku*, „Toruński Rocznik Podatkowy” 2011, Toruń, pp. 6–7.

⁷³ *Ibidem*.

tive statements contains cases of normalization of the tax subject in the most elaborate way, i.e. the legislator first outlines the events constituting the tax subject and then exposes the “objects” to which these events refer. The latter applies in particular to the tax on an inheritance and donations, a tonnage tax, and a dog tax⁷⁴.

The tax rate is a number which, together with the tax basis, allows the determining of the tax rate⁷⁵. The tax rates take the form of either a quota or proportional rates. As B. Brzeziński indicates, proportional rates are divided into percentage, fractional, and multiple rates. By contrast, the quota rate refers to the number of monetary units to be paid from the tax calculation basis unit⁷⁶. And with regard to a particular tax, the percentage rate can be either a fixed rate or a rate band. A fixed percentage can be observed when one and the same rate is used in a specific tax to calculate the tax consideration regardless of the tax basis⁷⁷. The opposite is the rate band, which is an orderly set of (increasing or decreasing) interest rates or often mixed rates, i.e. quotas and percentages that apply to different tax basis⁷⁸. Moreover, the rate band is formed by tax basis ranges and tax rates corresponding to these ranges. The main types of rate bands are the progressive band rate and the regressive band rate. The former assumes increasing tax rates as the tax basis increases, with often mild, moderate, or sharp progression⁷⁹. The second one, i.e. the regressive rate band, refers to decreasing tax rates as the tax basis increases, and it is also distinguished by a moderate, mild, or sharp form⁸⁰.

The tax basis is a quantified or monetised subject of a tax⁸¹. A. Gomułowicz indicates two fundamental aspects of the concept, i.e. the structural aspect and the normative aspect⁸². It should be emphasised here that the tax basis is one of the components determining the legal construct of

⁷⁴ Ibidem.

⁷⁵ H. Litwińczuk, *Prawo podatkowe...*, p. 14.

⁷⁶ B. Brzeziński, *Prawo...*, p. 149.

⁷⁷ Ibidem.

⁷⁸ Ibidem.

⁷⁹ Ibidem, p. 150.

⁸⁰ Ibidem.

⁸¹ Ibidem, p. 148.

⁸² A. Gomułowicz [in:] A. Gomułowicz, J. Małecki, *Podatki...*, p. 153.

the tax and forms part of the subject of taxation. On the other hand, by considering the tax basis as a normative construct, the basis can be seen in three different ways. Firstly, as a set of legal norms governing the institution of the tax basis, secondly, as the determination of the tax basis rate in a specific type of a tax and thirdly, as a fixed tax assessment basis determined in a tax procedure in individual and specific terms⁸³.

Tax exemptions, tax reliefs, and possibly tax appreciations are also part of the tax construct. The former allow the limiting of the personal or the material scope of the taxation by excluding specific situations – in principle – to be taxed⁸⁴. The exemption may be subjective, objective, or mixed (object-subject). A tax relief consists of a tax reduction in the case of special situations, relative to the general burden, and may in particular consist of a reduction in the tax basis, a reduction in the amount of the calculated tax, or a reduction in the tax rate⁸⁵. It should be stressed that tax reliefs are provided for in the regulations on individual taxes and should be distinguished from tax reliefs provided for in general tax law on tax liabilities.

6. Conclusions

It is generally accepted that a system is a set of components that are interconnected and interdependent. The components as well as their links should form a coherent whole. Although this is a certain assumption, the practice usually looks a bit different, because, for example, the tax system is not in a legal vacuum, and it depends on many factors. It can be assumed that a tax system can be analysed in theory and as a set of taxes in force at a given time in a given territory.

Analysing the issues related to the tax system in Poland, the authors have focused mainly on this concept, which means all taxes that are in force in a given country at a given time.

⁸³ A. Gomułowicz [in:] A. Gomułowicz, J. Małecki, *Podatki...*, p. 153.

⁸⁴ B. Brzeziński, A. Olesińska (ed.) *Prawo finansów...*, p. 240.

⁸⁵ *Ibidem*, pp. 240–241.

There is no doubt that taxes in Poland are the most important component of public levies, which results directly from the Polish Constitution. Taxes as well as other levies have a general purpose, i.e. they serve to finance all public services.

It should also be pointed out that EU legislation is of a great importance for the tax system in Poland, which has played a significant role in shaping and changing it through tax harmonisation. The impact of EU law is not only observed from the perspective of directives and regulations, but also from the jurisdiction of the European Court of Justice.

As regards the classification of taxes, the authors have pointed out that taxes can be classified according to different criteria. In principle, there are currently three groups of taxes, i.e. income taxes, turnover (consumption) taxes, and wealth taxes. The authors have also analysed the components of taxes and briefly characterized them.

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