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## **The taxation powers of municipalities in Poland and fire protection – an outline of the issues based on property tax exemptions<sup>1</sup>**

**Władztwo podatkowe gminy w Polsce a ochrona przeciwpożarowa – zarys problematyki na podstawie zwolnień w podatku od nieruchomości<sup>2</sup>**

**Abstract.** As a part of their fiscal sovereignty, municipalities in Poland may introduce exemptions from property tax, the most efficient of the currently exist-

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<sup>1</sup> The publication was financed by the Nicolaus Copernicus University in Toruń under grant No 1080-P.

<sup>2</sup> Druk publikacji został sfinansowany przez Uniwersytet Mikołaja Kopernika w Toruniu w ramach grantu nr 1080-P.

ing local taxes. Exemptions introduced to legal transactions through the resolutions of commune councils are valid only in the commune which adopted the relevant resolution. The authors analysed the resolutions adopted in 2017 by communes located in two provinces. They established that the communes apply exemptions to numerous objects of taxation, and at the forefront of the exemptions are undoubtedly the exemptions for subjects of taxation related to fire protection. The authors found that municipalities achieve the same objective, i.e. the exemption of the subject of taxation related to fire protection, using various wordings of their resolutions. This leads to the conclusion that the exemption of property in connection with fire protection should constitute a statutory exemption, i.e. binding in the territory of all communes in Poland.

**Keywords:** commune; taxes; property tax; tax exemptions; taxation powers.

**Streszczenie.** W ramach posiadanego władztwa podatkowego gminy w Polsce mogą wprowadzać zwolnienia przedmiotowe w zakresie podatku od nieruchomości, najwydajniejszego z istniejących obecnie podatków lokalnych. Zwolnienia wprowadzane do obrotu prawnego poprzez uchwały rad gmin obowiązują tylko na obszarze tej gminy, która podjęła stosowną uchwałę. Autorzy dokonali analizy uchwał podjętych przez gminy położone na terenie dwóch województw w 2017 r. Ustalili, że gminy stosują zwolnienia w stosunku do wielu przedmiotów opodatkowania, a w czołówce zwolnień niewątpliwie mieszczą się zwolnienia przedmiotów opodatkowania związanych z ochroną przeciwpożarową. Autorzy stwierdzili, że gminy ten sam cel, tj. zwolnienie przedmiotu opodatkowania związanego z ochroną przeciwpożarową, realizują przy wykorzystaniu różnych zwrotów umieszczanych w uchwałach. Skłania to do postawienia wniosku, że zwolnienie nieruchomości związanych z ochroną przeciwpożarową powinno być zwolnieniem ustawowym, tj. obowiązującym na terenie wszystkich gmin w Polsce.

**Słowa kluczowe:** gmina; podatki; podatek od nieruchomości; zwolnienia podatkowe; władztwo podatkowe.

## 1. Introduction

Pursuant to Article 7(1) of the Act of 8 March 1990 on Commune Self-Government<sup>3</sup>, meeting the collective needs of the community is one of the

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<sup>3</sup> Consolidated text: Dz.U. [Polish Journal of Laws] of 2017 poz. [item] 1875 with subsequent amendments.

municipality's own tasks; in particular, the municipality's own tasks include, inter alia (point 14) matters of fire protection. T. Moll has grouped the tasks referred to in Article 7(1) into seven categories, and included fire protection matters in the category of "citizens' safety"<sup>4</sup>. Z. Niewiadomski, on the other hand divides the commune's own tasks into four categories – i.e. technical infrastructure, social infrastructure, spatial and ecological order, and public order and safety. Fire protection, which is the municipality's own task was placed in the last category<sup>5</sup>.

In order for the commune to be able to carry out tasks in the field of fire protection, it is necessary to have specific regulations in place. The basic legal act, which defines the tasks of the commune in this area is the Act of 24 August 1991 on fire protection<sup>6</sup>. First of all, it should be noted that the definition of the term "fire protection" has been formulated in Article 1 – it consists in the implementation of undertakings aimed at protecting life, health, property, or the environment against fire, natural disaster or other local threats through the following:

1. preventing the occurrence and spread of fire, natural disaster, or any other local threat,
2. providing forces and means to fight fire, natural disaster, or any other local threat,
3. carrying out rescue operations.

In the context of the commune's tasks in the field of fire protection, the statutory definition of the "national rescue and fire-fighting system" is also important. In accordance with Article 2(4) of the Act on Fire Protection it is understood as an integral part of the organization of an internal security of the state, including, for the purposes of saving life, health, property, or the environment, the anticipating, recognizing and fighting of fires, natural disasters, or other local threats, the said system gathers fire protection units, other services, inspections, guards, institutions, and enti-

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<sup>4</sup> T. Moll [in:] B. Dolnicki (ed.), *Ustawa o samorządzie gminnym. Komentarz*, Warszawa 2018, pp. 187–188.

<sup>5</sup> Z. Niewiadomski [in:] M. Kallas, I. Lipowicz, Z. Niewiadomski, G. Szpor, *Prawo administracyjne. Część ustrojowa*, Warszawa 2002, p. 144.

<sup>6</sup> Consolidated text: Dz.U. of 2018, poz. 620 with subsequent amendments.

ties which have voluntarily agreed to cooperate in rescue operations on the basis of a civil-law agreement. Supervision of the functioning of the national rescue and fire-fighting system is exercised by the minister in charge of internal affairs. The tasks of the governor (mayor) primarily consist of coordination of the functioning of the national rescue and fire-fighting system in the area of the commune. An extend of this task is determined by the provincial governor. This task may be performed with the assistance of the commune chief of fire protection, if he/she was employed by the provincial governor (mayor), or with the assistance of the municipal chief of the voluntary fire brigade association (Article 14(5) of the Fire Protection Act).

It should be noted that Article 15 of the Fire Protection Act lists the units carrying out tasks within the framework of a fire protection in Poland. Among them, the legislator indicates, inter alia, a commune professional fire brigade (point 4), a district (municipal) professional fire brigade (point 4a), and a voluntary fire brigade (point 6).

Chapter 6 of the Fire Protection Act is entirely devoted to an issue of material and financial services related to the functioning of fire protection units. The costs of operation of these entities are covered, inter alia, from budgets of local government units (Article 29(2)).

The legislator imposes a number of obligations on the commune related to, amongst other matters, an equipment, a maintenance, a training, and ensuring the readiness for action of voluntary fire brigades (Article 32(2)), free of charge uniforms for members of voluntary fire brigades (Article 32(3)(1)), insurance for members of voluntary fire brigades and youth fire brigades (Article 32(3)(2)), and the coverage of costs of periodic medical examinations (Article 32(3)(3)). In accordance with Article 32(4) of the Fire Protection Act, the commune must also bear the costs related to a maintenance, a training, and a readiness to fight fires of volunteer fire brigades operating in a building, a facility, or an area which is not owned, used or managed by the commune. In the light of Article 32(3b) of the Fire Protection Act, it is also possible for local government units to provide voluntary fire brigades with funds in the form of subsidies.

## **2. Exemptions from property tax and the taxation powers of municipalities**

The implementation of tasks in the field of fire protection is connected, for instance, with the functioning of fire protection units, which occupy specific buildings, facilities, or land. Meanwhile, in accordance with Article 2(1) of the Act of 12 January 1991 on local taxes and charges<sup>7</sup> the following real estate or building structures are subject to a real property tax:

1. a land,
2. buildings or their parts,
3. structures or their parts connected with conducting economic activity.

The Act on Local Taxes and Charges does not introduce any tax exemptions (objective or subjective ones) or tax exclusions with respect to a real estate which is seized for fire protection purposes. The only possibility of exempting real a estate seized for fire protection purposes is the possibility provided for in Article 7(3). This exception may introduced by way of a resolution of the commune council other exemptions than those specified in paragraph 1 of the Act on Local Taxes and Charges and in Article 10(1) of the Act of 2 October 2003 amending the Act on Special Economic Zones and certain other acts<sup>8</sup>.

Resolutions on exemptions from property tax are connected with an execution of a so-called taxation powers by the commune. Article 168 of the Constitution of the Republic of Poland of 2 April 1997<sup>9</sup> is the prime source of the existing powers concerning the authority to impose taxation of communes. It states that “local government units have the right to determine the amount of taxes and local charges within the scope specified in the Act”. The authority to set the amount of public levies<sup>10</sup> is one

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<sup>7</sup> Consolidated text: Dz.U. of 2018 poz. 1445 (hereinafter also as „LTCA”).

<sup>8</sup> Dz.U. of 2003 No 188, poz. 1840.

<sup>9</sup> Dz.U. of 1997 No 78, poz. 483 with subsequent amendments.

<sup>10</sup> Pursuant to Section 5(2)(1) of the Public Finance Act of 27 August 2009 (consolidated text: Dz.U. of 2017, poz. 2077, with subsequent amendments), public imposts include: “taxes, contributions, levies, fees, payments from profits of state-owned enterprises and sole proprietorship companies of the State Treasury and state-owned banks, as well as other cash benefits whose obligation to pay to the State, local government units, state special purpose funds and other public finance sector units results from separate acts”.

of the manifestations of the tax powers of communes which are implementing local tax policy<sup>11</sup>. It is also firstly and foremostly identified with the power to make decisions in the area of shaping, and – specifically – setting the rates of local taxes and charges in a process of creating tax law. Municipalities, within the scope defined by law, decide independently on the amount of local taxes and charges, and the power to determine the rates of public levies is the basic tool for achieving this goal<sup>12</sup>.

The literature<sup>13</sup> indicates that “the right resulting from Article 168 of the Constitution should not be related only to deciding on the amount of taxes in the process of legislating”. Shaping tax rates by way of enacting local laws is not the only way of deciding on the amount of a liability. The amount of a tax or fee may also be shaped in the process of applying the tax law, e.g. in the area of granting reliefs in repayment, where the tax authority issues an appropriate decision of an individual and specific nature<sup>14</sup>.

Another way of influencing the amount of the taxpayer’s liability is the competence granted by law to municipal authorities to introduce exemptions from property tax. This exception may take a form other than this which is specified by law, but only if it is of an objective nature<sup>15</sup>. Leaving the municipal council free to determine the exemptions in question is justified by the fact that the revenue from the property tax in its entirety constitutes revenue for the municipal budget, and the municipal council, as the decision-making organ, is the most competent

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<sup>11</sup> More on municipal tax policy cf.: A. Kobińska, *Polityka podatkowa gmin w kontekście samodzielności finansowej*, „Prace Naukowe Uniwersytetu Ekonomicznego we Wrocławiu” 2017, No 488, pp. 68–75, DOI: 10.15611/on.2017.488.06.

<sup>12</sup> M. Popławski (ed.), *Stanowienie i stosowanie prawa podatkowego w gminach*, Białystok 2007, p. 25 et seq.

<sup>13</sup> Cf. L. Etel, *O potrzebie zmian w lokalnym prawie podatkowym – cz. 1*, *Finanse Komunalne* 2011, No 11, pp. 5–19; L. Etel, R. Dowgier, *Podatki i opłaty lokalne. Czas na zmiany*, Białystok 2013, p. 184.

<sup>14</sup> L. Etel, *O potrzebie zmian...*, p. 6.

<sup>15</sup> J. Dziuba, *Zróżnicowanie fiskalnych skutków polityki podatkowej jednostek samorządu terytorialnego*, „Annales Universitatis Mariae Curie-Skłodowska”, sectio H *Oeconomia*, 2016, vol. L, 1, pp. 351–360, DOI:10.17951/h.2016.50.1.351.

authority to decide on the needs and types of tax exemptions which are applied in a given area<sup>16</sup>.

The Constitution of the Republic of Poland of April 2, 1997, therefore, guarantees incomplete and to a certain extent limited taxation powers to the decision-making bodies of municipalities. It can be stated that the authority to impose taxation of communes has only the character of a so-called shaping (modelling) of tax burdens, and not establishing taxes<sup>17</sup>. Therefore, it concerns the right to determine the elements influencing the amount of tax burdens of individual taxpayers, i.e. an application of e.g. objective exemptions, tax reliefs, or differentiation of tax rates in such a way as not to exceed the maximum rates specified in the Act<sup>18</sup>. The boundaries of the taxation powers of communes are indicated in Article 217 of the Constitution, in which the legislator states that all significant structural elements of the tax should result from the Act, including: an entity and a subject of taxation, tax rates, rules for granting reliefs and write-offs, and categories of entities exempt from the tax<sup>19</sup>. By so doing, the legislature gives the municipal authorities a power to pursue their own tax policy solely by means of the objective exemptions. At the same time, municipal authorities are deprived of this in relation to the subjective exemptions. This model, which significantly limits the taxation powers of communes, has given rise to a discussion<sup>20</sup> as to whether the legislator should not entrust local government units with the right to establish objective exemptions by way of resolutions.

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<sup>16</sup> L. Etel, *Podatek od nieruchomości. Komentarz*, Warszawa 2012, p. 437; G. Owczarczyk-Szpakowska, *Podatek od nieruchomości. Funkcjonowanie i model docelowy*, Bydgoszcz 2012, p. 63.

<sup>17</sup> J. Kulicki, *Zakres władztwa podatkowego w obecnym stanie prawnym w Polsce*, „Analizy BAS” 2010, No 16(41), pp. 10–25.

<sup>18</sup> B.Z. Filipak, *Polityka podatkowa gmin czy realizacja władztwa podatkowego?*, „Zeszyty Naukowe Uniwersytetu Szczecińskiego. Finanse, Rynki finansowe, ubezpieczenia” 2015, No 76, v. 1, pp. 221–230, DOI: 10.18276/FRFR.2015.76/1-19.

<sup>19</sup> More broadly on this subject matter, inter alia, in: C. Kosikowski, *Podatki. Problem władzy publicznej i podatników*, Warszawa 2007, p. 95 et seq.

<sup>20</sup> More on this subject matter: A. Goettel, *Uprawnienia jednostek samorządu terytorialnego w zakresie tzw. mieszanych zwolnień podatkowych – postulatory de lege lata oraz de lege ferenda*, „Finanse Komunalne” 2010, No 6, pp. 32–38.

The literature indicates that it is often impossible to distinguish between subjective and objective exemptions<sup>21</sup>.

### 3. On the objective character of exemptions

Pursuant to Article 7(3) of the Act on Local Taxes and Charges, a municipal council may, by way of a resolution, introduce exemptions other than those provided for in Article 7(1) and Article 10(1) of the Act of 2 October 2003 amending the Act on Special Economic Zones and certain other acts. This means that by way of a resolution, a commune council cannot introduce subjective exemptions; such a competence is vested only in the legislator.

Despite the unambiguous wording of Article 7(3) of the Act on Local Taxes and Charges, some resolutions of municipal councils on exemptions from property tax contain errors.

The doctrine of a tax law discussed quite extensively a possibility of introducing, through resolutions, only objective exemptions<sup>22</sup>. As L. Etel points out: “The commune council may introduce tax exemptions other than statutory ones on its territory. However, it should be stressed that this concerns solely objective exemptions”<sup>23</sup>. Similarly, A. Olesińska states: “the commune council may also introduce exemptions other than those provided for in the Act – however, they may only be exemptions of an objective nature”<sup>24</sup>.

The literature also points out that an introduction of tax exemptions by municipalities is one of the pillars of its financial and fiscal autonomy<sup>25</sup> and, when analysing objective exemptions, municipalities perceive them narrowly, believing that the objective exemption consists of the exclusion

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<sup>21</sup> A. Borodo, *Glosa do wyroku NSA z dnia 25 czerwca 2003 roku (SA/Rz 235/03)*, „Orzecznictwo Sądów Polskich” 2004, No 2, p. 75.

<sup>22</sup> Cf. G. Owczarczyk-Szpakowska, *Podatek od nieruchomości...*, pp. 54–56; L. Etel [in:] L. Etel, S. Presnarowicz, G. Dudar, *Podatki i opłaty lokalne. Podatek rolny. Podatek leśny. Komentarz*, Warszawa 2008, pp. 305–310.

<sup>23</sup> L. Etel [in:] L. Etel, S. Presnarowicz, G. Dudar, *Podatki i opłaty lokalne...*, p. 310.

<sup>24</sup> A. Olesińska, *Polskie prawo podatkowe*, Toruń 2009, p. 413.

<sup>25</sup> A. Goettel, *Uprawnienia...*, pp. 32–38.

of certain categories of factual or legal situations from a given tax scope<sup>26</sup>. The objective exemption cannot relate to the entity or the nature of the activity which is carried out by the entity. However, it relates only to the object of taxation, i.e. a real estate in the possession of the taxpayer. The exemptions referred to in Article 7(3) of LTCA are established in resolutions of the municipal council which are enacted pursuant to Article 18(2)(8) of the Act on Communal Self-Government. The competence of the commune council to introduce exemptions from property tax is an example of the modification of statutory regulations in property tax<sup>27</sup> and is an expression of the implemented tax policy of communes<sup>28</sup>.

The right to exempt by way of resolutions does not include the right to establish subjective or subject-objective exemptions, as these issues, in accordance with the provisions of Article 217 of the Constitution of the Republic of Poland<sup>29</sup>, become the sole responsibility of the legislative authority<sup>30</sup>. As the doctrine of the tax law indicates: "It is necessary to specify the exempt object in the resolution in such a way that it is not possible to identify a specific taxpayer. The characteristics of the object must be defined so as to apply to a potentially indefinable individual taxpayer"<sup>31</sup>. Moreover, the resolution of the municipal council may not in any way refer in its content to objects of taxation which have been exempted under the Act, either in the aforementioned provision of Article 7(1) of LTCA or in the provisions of the aforementioned act amending the

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<sup>26</sup> Zob. P. Majka [in:] W. Morawski (ed.), *Ustawa o podatkach i opłatach lokalnych. Komentarz*, Gdańsk 2016, s. 404; J. Glumińska-Pawlic, *Ulgi i zwolnienia podatkowe jako formy pomocy publicznej udzielanej przez organy samorządowe* [in:] K. Sawicka (ed.), *Księga Jubileuszowa Profesora Ryszarda Mastalskiego. Stanowienie i stosowanie prawa podatkowego*, Wrocław 2009, p. 171.

<sup>27</sup> J. Małecki, *Konstrukcja prawna podatku od nieruchomości* [in:] A. Gomułowicz, J. Małecki, *Podatki i prawo podatkowe*, Warszawa 2013, p. 634.

<sup>28</sup> On the implementation of tax policy in relation to tax exemptions cf.: K. Sawicka, *Polityka podatkowa gminy* [in:] K. Sawicka (ed.), *Księga Jubileuszowa Profesora Ryszarda Mastalskiego...*, p. 394.

<sup>29</sup> The levying of taxes, other public imposts, determination of entities, objects of taxation and tax rates, as well as the rules of granting reliefs and write-offs and categories of entities exempt from taxes are effected by way of an act.

<sup>30</sup> P. Majka [in:] W. Morawski (ed.), *Ustawa o podatkach i opłatach lokalnych. Komentarz...*, pp. 404–405.

<sup>31</sup> Ibidem, p. 405.

Act on Special Economic Zones and certain other acts<sup>32</sup>. The doctrine also emphasizes the position in the resolution of the commune council concerning objective exemptions “the determination of a low tax rate cannot be equated with the introduction of a partial exemption from property tax”<sup>33</sup>.

The judicature is unequivocal on this issue. For example, the Supreme Administrative Court (SAC) ruled on 13 June 2014<sup>34</sup> that “the Act on Local Taxes and Charges explicitly allows the municipal council to introduce only objective exemptions. Therefore, the ban on the adoption of exemptions of a subjective or subjective-objective nature is obvious.”

On the other hand, on 23 October 2014 the SAC concluded<sup>35</sup> that an exemption provided for in Article 7(3) may concern only the object, i.e. the real estate used for various types of activities. According to the SAC, the object of the exemption should be defined in such a way that it is not possible to identify a specific taxpayer. Thus, the characteristics of the object must potentially (hypothetically) refer to an indistinguishable individual taxpayers. A similar position was adopted by the SAC in other judgments, e.g. in the judgment of 19 October 2016.<sup>36</sup> On the other hand, in its judgment of 24 November 2016<sup>37</sup> the SAC stated that “the right to establish exemptions by the commune applies only to those which relate to a certain category of taxable objects, and does not include the right to establish subjective and subjective-objective exemptions”. The SAC also held that the absence of narrowing down the scope of potential beneficiaries of the said exemptions in the commune resolution with the simultaneous presence of special requirements regarding the real estate constituted an admissible objective exemption from property tax.

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<sup>32</sup> P. Borszowski, K. Stelmaszczyk, *Podatki i opłaty lokalne. Podatek rolny. Podatek leśny. Komentarz*, Warszawa 2016, p. 264.

<sup>33</sup> Cf. L. Etel, *Glosa do wyroku NSA z dnia 7 czerwca 2001 r.*, SA/Bk 353/01, „Finanse Komunalne” 2001, No 6, p. 72; M. Paczocha, *Glosa do wyroku WSA w Rzeszowie z dnia 20 kwietnia 2004 r.*, SA/Rz 128/03, „Finanse Komunalne” 2004, No 7–8, p. 133.

<sup>34</sup> II FSK 1574/12, LEX No 1511545.

<sup>35</sup> II FSK 2592/12, LEX No 1591774.

<sup>36</sup> II FSK 1307/16, LEX No 2168265.

<sup>37</sup> II FSK 2531/16 LEX No 2155899.

The SAC's line of rulings is shared (in principle) by the courts of first instance. As an example, we may point to the Provincial Administrative Court in Rzeszów, which in the judgment of 30 January 2017<sup>38</sup> correctly indicated that the object must be defined in such a manner that it is not possible to identify a specific taxpayer.

Not all resolutions of commune councils adopted on the basis of Article 7(3) contain exemptions of an objective nature, and formulations appear in the construction of exemptions which indicate that the commune decision-making body has exceeded its powers. However, such resolutions are challenged by Regional Chambers of Auditors. For example, we may point to the resolution of the Court of the Regional Chamber of Auditors in Białystok of 29 December 2016<sup>39</sup>, indicating that the fact of limiting a property tax exemption only to micro and small entrepreneurs leads to narrowing down the scope of potential beneficiaries of the exemption on the basis of a subjective criterion, i.e. the size of the entrepreneur, or to the resolution of the Court of the Regional Chamber of Auditors in Poznań of 19 August 2015<sup>40</sup> in which the Court aptly indicated that the municipal council may by way of a resolution introduce an exemption concerning the object of taxation in relation to a property tax and this exemption will not be referring to a specific category of taxpayers of this tax, i.e. persons who prior to the commencement of economic activity for the first time were unemployed.

#### **4. Resolutions of municipal councils introducing exemptions related to fire protection**

The authors analysed the tax resolutions of the communes adopted in 2017, which from 1 January 2018 introduced exemptions in a property tax with respect to an object of a taxation related to fire protection. The re-

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<sup>38</sup> I SA/Rz 879/16, LEX No 2220467.

<sup>39</sup> 6111/16, Lex No 2204504.

<sup>40</sup> 16/986/15, Lex No 1813519.

search was carried out in the communes of two provinces: in Kujawsko-Pomorskie and in Pomorskie.

Exemptions related to fire protection and cultural activities of real estate are the most frequently applied exemptions in communes located in the surveyed provinces. Thanks to the quantitative analysis it was possible to establish that in the communes of the Kujawsko-Pomorskie Province, the most frequently introduced exemptions in 2017 included tax objects related connected with:

1. fire protection (in 24 communes),
2. cultural activities (in 24 communes),
3. sports activities (in 19 communes),
4. water management (in 17 communes),
5. public benefit activity (in 8 communes),
6. public safety and order (in 7 communes).

In turn, in the communes of Pomorskie Province the situation was as follows:

1. fire protection (in 21 communes),
2. cultural activities (in 20 communes),
3. sports activities (in 15 communes),
4. water management (in 14 communes),
5. social assistance (in 9 communes),
6. cemeteries (in 8 communes).

It seems unquestionable that all the communes that introduced exemptions on property tax in relation to fire protection in 2017 were guided by rational premises – using the taxation powers they weighed their fiscal interest (on the one hand) with the general interest (on the other hand).

In order to achieve the objective of the exemption from taxation of property connected with fire protection, the communes formulated in the text of the resolution the appropriate content of such an exemption. It is obvious that different wordings can be used to achieve the intended result, but the authors were surprised by the number of phrases which were used by the communes. The phrases which were used are presented below, assuming that if the wording of the exemption was not literally identical,

we were dealing with different wordings<sup>41</sup>. The following phrases were used in the communes of Kujawsko-Pomorskie Province:

1. buildings and land occupied for fire protection needs<sup>42</sup>,
2. building and land occupied for fire protection purposes<sup>43</sup>,
3. buildings or their parts and land used for fire-fighting purposes with an exception of those occupied for business activities<sup>44</sup>,
4. buildings or parts of buildings and land related to these buildings, used for fire protection purposes, with an exception of parts occupied for business activities<sup>45</sup>,
5. buildings or their parts, land, and structures occupied for fire protection purposes, occupied for the purposes of free statutory activity<sup>46</sup>.
6. buildings, structures, and land used for fire protection purposes<sup>47</sup>,
7. buildings, structures, and land used for the needs of fire protection<sup>48</sup>,
8. land and buildings or their parts occupied for fire protection purposes<sup>49</sup>,
9. land, buildings, and structures serving fire protection purposes<sup>50</sup>,
10. land, buildings, and structures used for fire protection purposes<sup>51</sup>,

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<sup>41</sup> In order to analyse the phrases used, the content of resolutions based on the Official Journal of the Kujawsko-Pomorskie Province and the Official Journal of the Pomorskie Province were used; in order to reduce the number of data, the authors provide the number of the relevant resolution, the date of its adoption and the body adopting it, and the year and publication number; the authors do not cite the title of the resolution.

<sup>42</sup> Resolution No XXXV/295/17 of the Commune Council of Aleksandrów Kujawski of 30 October 2017, 2017/4257.

<sup>43</sup> Resolution No XXVII/235/17 of the City Council of Kowalewo Pomorskie of 22 November 2017, 2017/4643.

<sup>44</sup> Resolution No XXIII/184/17 of the Commune Council of Topólka of 8 November 2017, 2017/4401.

<sup>45</sup> Resolution No XXXIX/530/2017 of the Commune Council of Lubicz of 24 November 2017, 2017/4888.

<sup>46</sup> Resolution No XXXV/307/2017 of the Commune Council of Dąbrowa Chełmińska of 15 November 2017, 2017/4511.

<sup>47</sup> Resolution No XXVII/171/17 of the City Council of Nieszawa of 30 November 2017, 2017/5245.

<sup>48</sup> Resolution No XXXII/181/2017 of the Commune Council of Dobrze of 30 October 2017, 2017/4321.

<sup>49</sup> Resolution No XXXVIII/168/2017 of the Commune Council of Ciecchocin of 30 November 2017, 2017/5172.

<sup>50</sup> Resolution No XXIX/179/2017 of the Commune Council of Świekatowo of 29 November 2017, 2017/4922.

11. land, buildings, and structures used for purposes connected with fire protection<sup>52</sup>,
12. land, buildings, and structures occupied solely for the purposes of conducting statutory activity within the scope of fire protection<sup>53</sup>,
13. land, buildings, and structures connected with fire protection, with the exception of those occupied for conducting business activity<sup>54</sup>,
14. land, buildings, or their parts and structures dedicated to fire protection activities<sup>55</sup>,
15. land, buildings, or their parts and structures used for fire protection purposes<sup>56</sup>,
16. land, buildings, or parts thereof, and structures related to fire protection activities<sup>57</sup>,
17. land, buildings, or parts thereof, and structures occupied for fire protection purposes in rural areas<sup>58</sup>,
18. land, buildings, or parts thereof intended for fire protection activities, with the exception of those occupied for conducting business activities<sup>59</sup>,
19. land, buildings, or parts thereof, structures or parts thereof occupied for purposes related to fire protection within the meaning of the Act of 24 August 1991 on fire protection<sup>60</sup>,

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<sup>51</sup> Resolution No XXVII/169/2017 of the Commune Council of Dąbrowa of 26 October 2017, 2017/4126.

<sup>52</sup> Resolution No XXXVIII/232/2017 of the Commune Council of Wielgie of 23 November 2017, 2017/4615.

<sup>53</sup> Resolution No XLVI/249/17 of the Commune Council of Wąpielsk of 29 November 2017, 2017/4839.

<sup>54</sup> Resolution No XXVI/173/2017 of the Commune Council of Chrostkowo of 27 November 2017, 2017/4789; Resolution No XLV/228/2017 of the City Council of Dobrzyń nad Wisłą of 29 November 2017, 2017/5023.

<sup>55</sup> Resolution No XXXVII/287/2017 of the Commune Council of Inowrocław of 17 November, 2017/4587.

<sup>56</sup> Resolution No XXVIII/208/2017 of the City Council in Janowiec Wielkopolski of 27 October 2017, 2017/4195.

<sup>57</sup> Resolution No 40/17 of the Commune Council of Dębowa Łąka of 3 November 2017, 2017/4461.

<sup>58</sup> Resolution No 270/17 of the City Council in Świecie of 30 November 2017, 2017/5212.

<sup>59</sup> Resolution No XLIII/229/2017 of the City Council in Gniewkowo of 25 October 2017, 2017/4313.

<sup>60</sup> Resolution No XXVI/274/2017 of the City Council in Pakość of 30 November 2017, 2017/5050.

20. real estate or parts thereof, related to fire protection activities except for those occupied for business activity<sup>61</sup>,
21. buildings and land related to fire protection activities<sup>62</sup>,
22. other land and buildings and structures used exclusively for fire protection activities<sup>63</sup>.

From the summary presented above, it appears that in only two cases, did the different municipal decision-making bodies adopt an identically formulated content of the exemption.

In turn, the following phrases were used in the communes of Pomorskie Province:

1. structures, buildings, or parts thereof and land intended for fire protection activities<sup>64</sup>,
2. buildings and structures or parts thereof and land used for public fire protection purposes<sup>65</sup>,
3. buildings and structures or parts thereof and land used for fire protection purposes<sup>66</sup>,
4. buildings and structures used for fire protection purposes with the exception of buildings and structures related to conducting business activity<sup>67</sup>,
5. buildings and land exclusively used for fire protection purposes with the exception of their parts used for business activities<sup>68</sup>,

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<sup>61</sup> Resolution No XXVI/155/2017 of the Commune Council of Zakrzewo of 6 November 2017, 2017/4395; Resolution No XXIV/221/2017 of the Commune Council of Osiećiny of 29 November 2017, 2017/4918.

<sup>62</sup> Resolution No XLIV/219/2017 of the Commune Council of Kęsowo of 23 November 2017, 2017/4648.

<sup>63</sup> Resolution No XXIX/215/17 of the Commune Council of Włocławek of 23 November 2017, 2017/4874.

<sup>64</sup> Resolution No XXXIII/257/17 of the Commune Council of Cedry Wielkie of 8 November 2017, 2017/4457.

<sup>65</sup> Resolution No XXXIII/259/2017 of the Commune Council of Sulęczyno of 30 October 2017, 2017/4073.

<sup>66</sup> Resolution No XXXV/100/2017 of the Commune Council of Pruszcz Gdański of 23 October 2017, 2017/3830.

<sup>67</sup> Resolution No XXXIV/188/2017 of the Commune Council of Gardeja of 25 October 2017, 2017/3941.

<sup>68</sup> Resolution No XLIII/320/2017 of the Commune Council of Potęgowo of 27 October 2017, 2017/4128.

6. buildings and land used for fire-fighting activities<sup>69</sup>,
7. buildings or parts thereof and land (excluding real estate or parts thereof occupied for business activity) used for fire protection purposes<sup>70</sup>,
8. buildings or parts thereof occupied for the purposes of fire protection activities and the land occupied thereunder<sup>71</sup>,
9. buildings or parts of buildings, structures and land occupied for purposes related to fire protection activities<sup>72</sup>,
10. buildings or parts thereof, structures and land occupied for fire protection activities with the exception of those occupied for business activities<sup>73</sup>,
11. buildings or parts thereof, structures and land occupied for fire protection activities within the meaning of the Fire Protection Act of 21 August 1991, with the exception of those occupied for business activities<sup>74</sup>,
12. buildings or parts thereof, land and structures or parts thereof used for fire protection purposes<sup>75</sup>,
13. buildings or a part thereof, structures and land occupied exclusively for fire protection activities<sup>76</sup>,
14. buildings or parts thereof, structures or parts thereof, and land used exclusively for rescue and fire-fighting operations<sup>77</sup>,
15. land and buildings or parts thereof occupied for fire safety purposes<sup>78</sup>,

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<sup>69</sup> Resolution No XXIV/208/2017 of the Commune Council of Studzienice of 26 October 2017, 2017/4179.

<sup>70</sup> Resolution No 85/LIX/2017 of the City Council in Debrzno of 30 October 2017, 2017/4051.

<sup>71</sup> Resolution No XXVII/147/2017 of the Commune Council of Osieczna of 8 November 2017, 2017/4202.

<sup>72</sup> Resolution No XXXVIII/224/2017 of the Commune Council of Smołdzino of 26 October 2017, 2017/3852.

<sup>73</sup> Resolution No XXXVII/274/17 of the Commune Council of Damnica of 30 November 2017, 2017/4310.

<sup>74</sup> Resolution No 313/XLIII/2017 of the City Council in Nowy Staw of 26 October 2017, 2017/3886.

<sup>75</sup> Resolution No 246/XLIII/2017 of the Commune Council of Przechlewo of 27 November 2017, 2017/4302.

<sup>76</sup> Resolution No XXX/230/2017 of the Commune Council of Lipnica of 3 November 2017, 2017/4106.

<sup>77</sup> Resolution No XXVI/292/2017 of the Commune Council of Cewice of 26 October 2017, 2017/3857.

16. land and buildings used for fire protection purposes – with the exception of parts used for business activity<sup>79</sup>,
17. land and buildings or parts thereof intended solely for fire protection purposes with the exception of parts used for business activity<sup>80</sup>,
18. real estate or parts thereof intended for fire-fighting activity, in which no business activity is conducted<sup>81</sup>,
19. real estate or parts thereof intended for fire-fighting activity, with the exception of real estate or parts thereof in which business activity is conducted<sup>82</sup>,
20. real estate occupied for fire protection purposes, with the exception of taxed property occupied for business activity<sup>83</sup>,
21. real estate occupied for fire protection purposes, with the exception of real estate occupied for business activity<sup>84</sup>.

It appears that in 2017, in the communes of Pomorskie Province, with regard to an exemption from a property tax in relation to fire protection, the identical wording was not used, but of course all expressions used differ from one another, often in details, in the sequence of particular words, etc. An interesting fact is that in two resolutions, the term “fire protection” was replaced by “firefighting rescue” and “rescue and fire-fighting activities”.

It is obvious that the differences between the above expressions are in most cases subtle, nonetheless they exist.

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<sup>78</sup> Resolution No XXXV/440/2017 of the Commune Council of Słupsk of 24 October 2017, 2017/3840.

<sup>79</sup> Resolution No XXXIII/98/2017 of the Commune Council of Wicko of 14 November 2017, 2017/4216.

<sup>80</sup> Resolution No XXXVIII/371/17 of the Commune Council of Nowa Wieś Lęborska of 26 October 2017, 2017/3833.

<sup>81</sup> Resolution No XXVIII/464/2017 of the Commune Council of Chojnice of 29 November 2017, 2017/4485.

<sup>82</sup> Resolution No XXIV/194/2017 of the Commune Council of Konarzyny of 23 November 2017, 2017/4330.

<sup>83</sup> Resolution No V/36/17 of the Commune Council of Stary Dzierzgoń of 30 November 2017, 2017/4335.

<sup>84</sup> Resolution No XLVIII/617/2017 of the City Council of Władysławowo of 25 October 2017, 2017/3809.

## 5. Conclusions

The commune council may introduce on its territory exemptions to the property tax which are other than statutory. However, this right applies only to exemptions of an objective nature. The doctrine rightly emphasises that tax exemptions with regard to taxes contributing to the budgets of communes are one of the manifestations of their fiscal authority.

An analysis of the resolutions adopted in 2017 by the communes of two provinces shows that the catalogue of types of objects exempt from property tax is extensive. Local government units decide for themselves what objectives they want to achieve with the help of exemptions.

Many municipalities recognise that fire protection issues are of such significance that it is necessary to apply objective exemptions to the property related to them. The conducted research has shown that the same objective (the exemption of real estate related to fire protection) is achieved by municipalities using a wide range of expressions. In principle, it is unusual for exactly the same expression to appear in the resolutions of two municipalities.

In the view of the above, it seems justified to draw a conclusion *de lege ferenda* that the exemption of real estate related to fire protection should be included in the catalogue of statutory exemptions.

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