

Principles of Taxation of Interest Income or Discount on Covered Bonds Issued in Poland

Abstract: The rules of taxation of revenues or income from covered bonds issued in Poland may become a significant barrier to the demand for this category of debt securities and, as a result, considerably limit the capabilities of mortgage banks to grant long-term loans for investment purposes. The present study has analysed and assessed the legislation in force in Poland regarding the scope and methods of taxation of interest and discount on covered bonds as a form of revenue or income earned by their holders. The aim of the study is to present various methods of taxation of these revenues or income, determined by the legal status of taxpayers. The thesis verified herein assumes the excessive privileging of non-residents with revenues or income from covered bonds, leading to unequal treatment of the taxpayers who are Polish tax residents. Furthermore, the study demonstrates that the legislator has led to a situation where corporate income tax payers are treated more favourably than personal income tax payers as regards the taxation of interest and discount on covered bonds. The formulated *de lege ferenda* postulates are intended to significantly reduce these differences in the taxation of revenues or income obtained from the same source. The study uses the legal-dogmatic method and, additionally, the analytical method.

Keywords: banks, investment in covered bonds, interest and discount, income tax, tax privileges

Preliminary remarks

Covered bond issue rights were formally restored in Poland on 1 January 1998, after nearly 50 years of their non-functioning. The entities initially provided with the capacity to issue covered bonds were exclusively mortgage banks (Act on covered bonds and mortgage banks of 29 August 1997, Journal of Laws 2020, item 415), i.e., specialised banks whose main activity is granting long-term loans. The issue of covered bonds is also included in the category of basic activities of mortgage banks. As of 23 February 2011, Bank Gospodarstwa Krajowego, BGK (Act amending the Act on Bank Gospodarstwa Krajowego and certain other acts of 5 January 2011, Journal of Laws No. 28, item 143), which is not a mortgage bank, also became authorised to issue covered bonds.

In the light of Polish legislation, investing in covered bonds is in fact unlimited in the subjective aspect. The right to purchase covered bonds is enjoyed by nat-

ural persons, legal persons and organisational units without legal personality. The above-mentioned entities may be purchasers of covered bonds issued in Poland regardless of whether they are Polish tax residents or do not have this tax and legal status. On the other hand, certain restrictions were introduced regarding the value of covered bonds purchased by some types of financial institutions, e.g., open and closed investment funds, pension funds, or cooperative savings and credit unions. The aforementioned financial institutions may purchase covered bonds only up to a certain value of their free assets. This is due to the statutory limits motivated by maintaining a safe concentration of investments in a specific type of financial instruments. Moreover, temporarily deposited in covered bonds may be free cash held on the accounts of some public funds entrusted to be administered by BGK, e.g., the Railway Fund, or the Subsidy Fund. Banks running a financially separate business in the form of the so-called building societies are entitled to invest free funds from this business in covered bonds. It should also be pointed out that the funds obtained by banks (mortgage banks and BGK) from the sale of covered bonds are not included in the basis for calculating the amount of those banks' mandatory reserves. No fund for the protection of guaranteed sums is created with the assets from the issue of covered bonds.

Legal regulations concerning the issue of covered bonds, investing funds in such securities and earning income from them are included in many legal acts in the field of financial market law, tax law, and public finance law. The aim of this study is to analyse and evaluate the applicable legal regulations relating only to the principles and forms of taxation of income earned by purchasers of covered bonds issued in Poland. The thesis verified herein assumes that the preferences in taxing such income applied to non-residents are not substantively justified. Comparison of those rules with the rules of taxation of tax residents who earn income from covered bonds indicates unequal treatment of taxpayers with the same source of revenue, while the application of tax preferences is not made conditional upon meeting any other requirements apart from being a non-resident. The study uses the legal-dogmatic method and, additionally, the analytical method.

Essence and Objectives of the Issue of Covered Bonds

Pursuant to the statutory definition of a covered bond [Dzierzbicki 2018, p. 13], as formulated in Art. 3 of the Act on covered bonds and mortgage banks, it is a registered security or bearer security, issued by a mortgage bank, which undertakes to provide certain cash benefits to the entitled party. The legislator distinguishes between mortgage covered bonds and public covered bonds, and their classification is the result of adopting one of the two permissible grounds for issue. In the case of mortgage covered bonds, these are the mortgage bank's claims secured by mortgages.

As regards public covered bonds, in turn, the grounds for their issue are the mortgage bank's claims for:

- loans – in their secured part, together with interest due, a guarantee or surety of the National Bank of Poland, the European Central Bank, governments or central banks of the Member States of the European Union, the Organisation for Economic Cooperation and Development, with the exception of countries that are restructuring or restructured their foreign debt in the last 5 years, and a guarantee or surety of the State Treasury, or
- loans granted to entities listed in point 1), or
- loans – in their secured part, together with interest due, a guarantee or surety of local government units, as well as loans granted to local government units.

Contrary to mortgage covered bonds, the basis for the issue of public covered bonds is not the entire receivable due to the mortgage bank for the established mortgage security, but only the part of this sum that is covered by a guarantee or surety of another entity [Wudarski 2003, p. 84].

Covered bonds are included in the category of debt securities. Their basic function is the mobilisation of external loan capital [Michalski 2000, p. 2]. Their issuer borrows certain funds from the purchasers of the covered bonds on terms offered by the issuer. The funds thus obtained are used to finance the issuer's activities. In the case of mortgage banks, the funds obtained from the issue of covered bonds are allocated to loaning activities. Covered bonds may be issued by BGK primarily in order to implement government programs supporting the development of housing, in particular the construction of residential premises for rent. When submitting the draft amendment to the Act on BGK in 2011, it was emphasised that a significant part of the bank's activity is already focused on granting loans related to real estate financing. It was found that BGK's authorisation to issue covered bonds could constitute an important refinancing tool for this area of the bank's operations, which would simultaneously create the possibility of utilising other sources to finance its remaining activities (Substantiation of the draft Act amending the Act on Bank Gospodarstwa Krajowego and certain other acts – Form No. 3479 of the Sejm of the 7th term, p. 7). Covered bonds issued by BGK are subject to the provisions of the Act on covered bonds and mortgage banks.

Until mid-2016, the authorised banks in Poland made very moderate use of the option to issue covered bonds. 20 issues were carried out for a total amount of PLN 6.9 billion, and the issuers were three banks: HypoVereinsbank Bank Hipoteczny (currently PEKAO Bank Hipoteczny), mBank Hipoteczny, and PKO Bank Hipoteczny. The bonds issued were mainly bearer covered bonds, with various redemption periods, i.e., from 5 to 15 years. Both floating and fixed rates were applied. The nominal value of the covered bonds was predominantly expressed in Polish currency, and only four times in EUR [Dźuryk 2017, pp. 92–95]. The first international issue of

Polish covered bonds was carried out on 24 October 2016 by PKO Bank Hipoteczny. The issue program was arranged by the Société Générale bank. Covered bonds with a value of EUR 500 million and a maturity of 5 years and 8 months were issued. The offer of PKO Bank Hipoteczny met with great interest of foreign investors. More than 90 investors submitted purchase declarations for a total amount of about EUR 1.5 billion, making the demand three times the amount of the supply [Dżuryk 2017, pp. 100–101].

Due to the very high demand for long-term housing loans in the last few years in Poland, mortgage banks have been using covered bonds increasingly more often. Since 2017, mBank Hipoteczny has completed 9 issues of covered bonds, including 5 issues of covered bonds denominated in Polish currency with a total value of PLN 1.9 billion and 4 issues of covered bonds issued in EUR with a total value of EUR 724.9 million (the information comes from the website of mBank Hipoteczny SA). In the same period, PKO Bank Hipoteczny carried out 10 issues of covered bonds on the domestic market with a total value of PLN 3.4 billion and 8 issues of covered bonds addressed to the international market with a total value of EUR 2.3 billion (the information comes from the website of PKO Bank Hipoteczny SA). Only in the first half of 2021, PEKAO Bank Hipoteczny completed three issues of covered bonds with a total value of PLN 580 million (the information comes from the website of PEKAO Bank Hipoteczny SA).

Pursuant to Art. 4 of the Act on covered bonds and mortgage banks, the cash benefits to be provided by the issuer for the benefit of the entitled party consist in the payment of interest and redemption of covered bonds in the manner and within the time limits specified in the terms of issue, taking into account the standards adopted in the Act. Income for the holder of a covered bond is primarily the amount of interest paid. According to the legislator, the catalogue of the essential elements of a covered bond includes, *inter alia*, designation of its nominal value and the date from which interest is accrued, as well as the amount of interest, dates of interest payment, covered bond redemption date, place of payment, and terms of its redemption.

Pursuant to Art. 5 of the Act on covered bonds and mortgage banks, a covered bond may be denominated either in Polish zlotys or in a foreign currency. The expression of the bank's liability for the issuance of covered bonds in a foreign currency means that the subject of the benefit provision will be a cash amount denominated in that currency, and not a cash amount expressed in Polish zlotys, the amount of which is determined at the conversion rate. Furthermore, the designation of a covered bond benefit in a foreign currency means that interest must also be charged in that currency [Michalski 2000, p. 37]. The amount of the nominal value of the covered bond, expressed in Polish currency or a foreign currency, is neither the holder's income nor loss. Regardless of a possible change in the exchange rate of Polish currency to the foreign currency between the date of purchase and the date of redemption of the covered bond, its holder receives a refund of the amount of the foreign currency in which

the nominal value of the covered bond was expressed. The subsequent sale of this foreign currency at a favourable price by the hitherto holder of the covered bond is not an event justifying the emergence of income (within the meaning of tax law) on their side. Likewise, selling that foreign currency at an unfavourable price is not a tax loss. The holder's income, however, is the interest accrued on the nominal value of the covered bond, both in Polish currency and in a foreign currency.

Methods of Taxation of Income Earned from Covered Bonds

Income taxes are charged to income earned from interest or discount¹ on covered bonds by Polish tax residents, i.e., taxpayers who have their place of residence, seat or management board in the territory of the Republic of Poland (Act of 26 July 1991 on Personal Income Tax (Journal of Laws 2021, item 1128, later amended) and the Act of 15 February 1992 on Corporate Income Tax, Journal of Laws 2021, item 1800, as amended). Pursuant to Art. 5a point 12 of the Personal Income Tax Act, discount is the difference between the amount obtained from the redemption of a security by the issuer and the expenses incurred to purchase the security on the primary or secondary market, and in the case of a security acquired by inheritance or donation – the difference between the amount obtained from the redemption and the expenses incurred by the testator or donor for the acquisition of that security. In order to determine the amount of discount, the purchase price is compared with the redemption price of the securities. The statutory definition implies that a discount is a form of interest income. Discount is the interest that the purchaser obtains when redeeming a security and receiving a nominal value for it, while they previously purchased it at a lower price. The definition of discount contained in art. 5a point 12 of the Personal Income Tax Act should be analysed in combination with the provisions of Art. 17 sec. 1 point 3 of the Personal Income Tax Act, which clearly stipulates that the income from cash capitals is the discount (interest) on securities. As a result, when the issuer sells securities at a discount, it is not possible to separately calculate tax deductible costs and tax income after their redemption (repurchase), because the income from the securities is the discount (Judgement of the Supreme Administrative Court of 14 February 2017, II FSK 79/15, LEX No. 2273722). Defined in this way, discount is subject to taxation, while constituting the basis for the assessment of income tax (Judgement of the Provincial Administrative Court of 12 January 2011, III SA/Wa 3012/10, LEX No. 953869).

The fact that an entity other than the one who acquired the securities participates in the redemption transaction is, pursuant to Art. 5a point 12 of the Personal Income Tax Act, irrelevant for the arising of the income tax obligation. The taxpayer will be

1 In the economic literature, discount is defined as a method of interest on securities assuming their purchase below their nominal value and redemption at their nominal value.

the donation recipient or the heir who presents the securities for redemption, and not their predecessor, i.e., the donor or the testator, who did not receive the income from discount but paid the price for the purchased securities (Judgement of the Supreme Administrative Court of 24 November 2009, II FSK 968/08, LEX No. 589002; judgement of the Provincial Administrative Court in Warsaw of 16 April 2008, III SA/Wa 14/08, LEX No. 483258).

In Art. 17 sec. 1 point 3 of the Personal Income Tax Act, it is indicated that the income from capital is interest (discount) on the securities. The legislator subjected the types of benefits mentioned in that provision to the same legal qualification. They are also taxed according to the same rules [Sekita 2011, p. 133], i.e., Art. 30a of the Personal Income Tax Act is applied, specifying the method of calculating the flat-rate income tax. The application of the flat-rate tax means that the income from covered bonds is not combined with any other income of the holder. Income from covered bonds is taxed at the rate of 19%, and the flat-rate tax is collected without reducing the income by tax deductible costs. As a rule, covered bonds do not have the form of a materially existing document². Their purchase is connected with the obligation to open a securities account used to record the holdings of these securities. Fees for maintaining such an account by a brokerage house or other authorised entity, as well as fees paid to intermediaries for the implementation of transactions in regulated secondary trading in covered bonds, are not recognised as tax deductible costs. As a result, the entire amount of income earned on covered bonds, in the form of interest or discount, is qualified as income and subject to flat-rate income tax.

Pursuant to Art. 41 sec. 4 of the Personal Income Tax Act, the flat-rate income tax on income from interest and discount on securities should be collected from the taxpayer by the payer, meaning that the amount of income less the collected income tax is provided to the taxpayer's disposal. As of 1 January 2019, the provision of Art. 41 sec. 24 of the Personal Income Tax Act was introduced, according to which payers are not obliged to collect tax on interest or discount on covered bonds. This means that the taxpayer should independently calculate the amount of the flat-rate income tax on interest or discount on covered bonds in a separate annual tax return (PIT-38) and pay the tax to the account of the competent tax office no later than by 30 April of the year following the year in which they obtained income from this source.

The method of taxing income from interest or discount on covered bonds with corporate income tax is regulated in a different manner. Pursuant to Art. 7b sec. 1 point 6 of the Corporate Income Tax Act, income from securities is classified as capital gains income, but is not subject to flat-rate income tax. Interest or discount on securities, including covered bonds, are subject to the general principles of taxation.

2 An exception is introduced by Art. 5a sec. 2 of the Act on covered bonds and mortgage banks, according to which a covered bond with a unit nominal value exceeding the amount equivalent to EUR 100,000 may have the form of a document.

This means that this income is added to other income earned by a legal person or an organisational unit without legal personality, except for income taxed with a flat-rate tax.

Contrary to the method of taxation with corporate income tax, where the tax on interest or discount on covered bonds is in fact charged to revenue and the costs of obtaining it are not taken into account, the corporate income tax in such a situation is determined on the basis of the income. This means that a legal person or an organisational unit without legal personality, being a taxpayer of corporate income tax, may take into account the incurred expenses constituting the costs of obtaining the revenues from covered bonds. Pursuant to Art. 15 sec. 1 of the Corporate Income Tax Act, tax deductible costs are expenses incurred in order to achieve revenues from a source of revenue or to maintain or secure this source of revenue, with the exception of the costs referred to in Art. 16 sec. 1 of the Corporate Income Tax Act. A specific expense may be considered a tax-deductible cost only when there is a cause-and-effect relationship between the expense and the achievement of income, where the incurring of the expense has or at least may have an impact on the creation or increase of income and securing the source of income [Radzikowski 2009, p. 72]. By formulating this statutory standard to be met by tax deductible costs, the legislator does not impose an unconditional obligation on the taxpayer to obtain income or to maintain or secure the source of income as a result of expenses incurred, but instructs the taxpayer to act rationally, with the aim of obtaining income or maintaining or securing the source of income [Gomułowicz 2016, p. 25].

A taxpayer of corporate income tax may deduct, from their revenues obtained from interest or discount on covered bonds, the expenses that had to be incurred in order to achieve the aforementioned revenues, e.g., expenses related to maintaining a securities account on which the holdings of the covered bonds in a non-document form are recorded. The application of the rules regulated in Art. 18 of the Corporate Income Tax Act relating to the determination of the tax base means that the expenses incurred by the taxpayer (tax base deductions) can be deducted from the income obtained from interest or discount on covered bonds. Income from interest or discount on covered bonds is taxed at a rate of 19%. The taxpayer is obliged to independently (without the participation of the payer) calculate and pay the income tax to the account of the competent tax office. Pursuant on Art. 26 sec. 1aa of the Corporate Income Tax Act, taxpayers are exempted from the obligation to collect tax on interest or discount on covered bonds from taxpayers. This provision, similarly to Art. 41 sec. 24 of the Personal Income Tax Act, introduces a general exemption from the obligation to collect tax by the payer, without distinguishing whether the taxpayer is a Polish tax resident or not, and whether they take advantage of the exemption from taxation of the income from interest or discount on covered bonds (Letter of the Director of the National Tax Information of 11 March 2021, 0114-KDIP2-1.4010.12.2021.1. OK, LEX No. 580521). Taxpayers should report the income earned on covered bonds in

their annual tax returns and pay the tax due on this account by 31 March of the year following the tax year for which they submit the tax return.

Tax Exemption on Income Earned from Covered Bonds

Exemption from taxation of the income from covered bonds earned by natural persons was introduced from 1 January 2016 (Act amending the Act amending the Act on covered bonds and mortgage banks and certain other acts of 24 July 2015, Journal of Laws 2015, item 1259) by adding point 130a to Art. 21 sec. 1 of the Personal Income Tax Act. Pursuant to this provision, interest or discount on covered bonds obtained by natural persons who do not reside in the territory of the Republic of Poland (non-residents) are not subject to income tax. A similar exemption was introduced from 1 January 2016 in the Corporate Income Tax Act. Based on Art. 17 sec. 1-point 50a of the Corporate Income Tax Act, interest or discount on covered bonds obtained by taxpayers who do not have their registered office or management board in the territory of the Republic of Poland, i.e. are non-residents, are not subject to corporate income tax. According to Art. 8 sec. 1 of the Act of 24 July 2015 amending the Act on Income Taxes, the exemptions could be applied for the first time in relation to income generated from covered bonds in 2015. It could also be income from covered bonds issued earlier. Therefore, income earned from covered bonds up until 2014 was taxable, while in the following years it was exempt from tax.

Before tax exemptions for non-residents investing in Polish covered bonds were introduced into the Polish laws regulating the taxation of income, most bilateral treaties on the avoidance of double taxation already contained provisions on the application of such exemptions. As of 1 January 2016, every non-resident became entitled to tax exemption, regardless of whether the Republic of Poland had concluded such an agreement with their home state and whether it included provisions on the exemption from taxation of income from covered bonds. More favourable, the provision of the Polish tax act would be applied even if a given bilateral agreement on the avoidance of double taxation did not introduce the said tax exemption.

The amendment to tax laws in this respect was justified by the need to strengthen the incentives for the development of the covered bond market, while assessing that these long-term debt securities are characterised by a high level of security and low investment risk. The increased demand for covered bonds should positively contribute to changing the mortgage loan financing model. In mid-2015, negative phenomena were identified in the Polish mortgage banking, including long maturities of bank assets, and their financing with short-term liabilities (deposits). This posed a considerable threat to the stability of the Polish banking sector, which had relatively high short-term liquidity, but long-term liquidity was significantly limited. During this period, the Polish banking sector demonstrated a 0.7% coverage in issued cover-

age bonds in relation to the value of loans granted for housing purposes, which posed a threat to the adequate long-term liquidity of the sector. In the Czech Republic, in this period, the level of refinancing of loans for housing purposes with covered bonds was 42%.

The purpose of exempting income from covered bonds issued in Poland from taxation is to maximise the demand for these securities (Substantiation of the draft Act amending the Act on covered bonds and mortgage banks and certain other acts – Form No. 3517 of the Sejm of the 9th term, pp. 1 and 10). The tax exemption is objective and subjective in nature. Its scope covers only interest or discount on covered bonds. Regardless of the amount of income earned on covered bonds by their holder, it is fully exempt from income tax. The exemption covers both incomes earned in Polish currency and in foreign currencies. The legislator does not make the tax exemption dependent on the allocation of the income for a specific purpose. In the objective aspect, the exemption from taxation of income from covered bonds is not conditioned in any way.

The subjective scope of the tax exemption in question is limited only to non-residents. Pursuant to Art. 3 sec. 2a of the Personal Income Tax Act, in relation to natural persons, non-residents are individuals who do not have their place of residence in the territory of the Republic of Poland. This provision should be analysed in combination with Art. 3 sec. 1a of the Personal Income Tax Act, i.e., a non-resident is a natural person who does not have their centre of personal or economic interests in the territory of the Republic of Poland or stays in the territory of the Republic of Poland for no more than 183 days in a tax year. When determining whether a given natural person has created their centre of interests in Poland, what should be primarily considered are their personal and economic ties with the state, including family and social ties, employment, political activity, cultural activity and any other activities, place of economic activity, sources of income, possessed investments, immovable and movable property, loans taken, bank accounts, the place from which they manage their property, etc. This is a very broad approach to the condition that determines tax residence or non-residence (Judgement of the Provincial Administrative Court in Szczecin of 15 February 2018, I SA/Sz 1063/17, Legalis No. 1731485). In practice, the maintenance of any economic ties with Poland may be considered by the tax authorities as a circumstance that confirms having one's centre of interests in Poland [Sidorowicz 2016, p. 14].

As regards the second condition determining one's tax residence or non-residence, it should be noted that the tax act does not specify the method of calculating the period of a natural person's stay in the territory of Poland. According to the Commentary on the OECD Model Convention on Income and Property Tax, the calculation of this period is based on the method determining the number of days of physical presence. This means that every part of a day, even a very short one, of the taxpayer's presence in a given country must be taken into account. The day of arrival

and the day of departure are also included in the number of days of presence (Judgement of the Provincial Administrative Court in Lublin of 7 February 2018, I SA/Lu 1035/17, Legalis No. 1787974).

The tax non-residence of a legal person or an organisational unit without legal personality, which are subject to the provisions of the Corporate Income Tax Act, should be determined in accordance with Art. 3 sec. 2 of the Corporate Income Tax Act. Stating that a given entity does not have a registered office or management board in the territory of the Republic of Poland means that there is no Polish tax residence and is a premise justifying the exemption of such a taxpayer from income tax on their income obtained from covered bonds.

Due to the very narrow scope of the discussed exemption, which applies only to strictly defined interest income and is dedicated only to non-residents, it can be classified as a specific tax privilege [Sekita 2017, p. 185]. Not all interest is exempt from taxation with income tax – only interest that has been expressly indicated by the legislator. Thus, tax exemptions are created for goods that, in the legislator's opinion, deserve special protection (Judgement of the Supreme Administrative Court of 30 January 2020, II FSK 434/18, LEX No. 2848035; judgement of the Provincial Administrative Court in Gliwice of 1 October 2019, I SA/Gl 639/19, LEX No. 2729728).

Conclusion

The situation of taxpayers holding covered bonds issued in Poland has been significantly diversified in the tax law aspect. The conducted study of the legislation in force in this area justifies the distinction of as many as three different tax law states. The first one concerns natural persons with the status of Polish tax residents who pay a flat-rate income tax, and the income from interest or discount on covered bonds is not combined with their other income. Due to the fact that natural persons have been deprived of the possibility of deducting expenses incurred to obtain the revenues, the 19% flat-rate income tax is charged to the entire amount of income earned from interest or discount on these securities.

The second state concerns Polish tax residents who are legal persons or organisational units without legal personality. Income from interest or discount on covered bonds obtained by these entities is reduced by the expenses incurred to obtain the revenues, and then accumulated with other income of such taxpayers. Certain expenses (tax credits) may be deducted from the tax base determined in this way, e.g., expenses for donations made for socially useful purposes. As a result, the income in question is taxed according to the general principles, at the 19% tax rate.

The third state applies to tax non-residents, regardless of whether they are natural persons, legal persons or organisational units without legal personality. Revenue or income obtained by such entities from interest and discounts on their covered

bonds is fully exempt from taxation. This tax exemption is not subject to any other additional conditions. This means that the tax exemption is applied regardless of the amount or frequency of revenue or income. It covers both non-residents from countries with which the Republic of Poland has concluded bilateral agreements on the avoidance of double taxation, as well as non-residents from other countries, and even those from the so-called tax havens.

The conducted study has confirmed the thesis that the application of tax preferences only to income from interest and discount on covered bonds earned by non-residents leads to unequal treatment of other entities investing in covered bonds. The purpose of the tax exemptions introduced from 1 January 2016 was to accelerate the development of the Polish covered bond market, and above all, to increase the demand for such securities. The increase in the value of covered bond issues in Poland after 2016 is noticeable, but the number of issues, and especially their value, remain low compared to other countries. In Germany, in 2018, there were 50 new issues of covered bonds with a total value of EUR 50.4 billion, while 369 issues of covered bonds with a total value of EUR 369.1 billion remained in the market circulation [Lepczyński, Gostomski 2020, pp. 77–78]. As at the end of 2019, there were covered bonds with a total value of EUR 26.6 billion on the market in Poland, while in Denmark this value was EUR 419 billion, in Germany EUR 354 billion, in France EUR 334 billion, and in Spain EUR 242 billion [www.parkiet.com/Analizy/306099920-Miedzynarodowe-ryunki-listow-zastawnych-znacznie-bardziej-rozwiniete-od-naszego.html, access as of 28 July 2021]. Against this background, the Polish covered bond market appears to be at a very early stage of development.

The high 19% tax rate and the long-term nature of covered bonds render them a rather unattractive form of investing free capital, especially for natural persons [Reksa 2002, p. 41]. The taxation of income from capital investments applied in Poland does not facilitate the financial stabilisation of households in the first place. Compared to other European countries, Poland performs quite poorly in terms of the amounts of household savings in relation to income earned. The highest gross savings rates are recorded in Switzerland (22.85%), Luxembourg (20.44%), Sweden (18.08%), Germany (17.11%), France (13.51%), Austria (13.38%), Norway (13.17%), Slovenia (12.83%), and the Netherlands (12.69%). The gross savings rate of households in Poland is only 4.36% [www.fxmag.pl/arttykul/kto-jeszcze-placi-podatek-belki-kraje-ktore-karza-ludzi-za-inwestowanie, access as of 28 July 2021].

So far, the purchasers of covered bonds in Poland have been mainly various financial institutions. On the other hand, the profitability of covered bonds is high, which is a function of credit quality: type of assets, issuer, and country of issue. The low level of credit risk of these instruments supports the statutory obligation of the issuer to provide multi-stage security for their issue and trading. The double recourse mechanism, as well as the entire regulatory and procedural framework, make the covered bond an instrument with the highest level of investment security, which is

empirically confirmed by its credit history. In more than 200 years of these financial instruments existing, no refusal to redeem them has ever taken place [Dżuryk 2018, p. 69].

Several *de lege ferenda* postulates can be put forward, the possible implementation of which could positively affect the development of the Polish covered bond market. With regard to natural persons, it is necessary to introduce the possibility of deducting the expenses constituting the costs of obtaining their revenues from interest or discount on covered bonds. With this possibility, income (as opposed to revenue) would be subject to taxation – in the same way as in the case of corporate income tax payers. Furthermore, it is necessary to unify the method of taxation of such income earned by natural persons, legal persons, and organisational units without legal personality. In each case, either a flat-rate income tax should be introduced, or the use of the so-called general principles of taxation which assume the accumulation of income from covered bonds with other income of the taxpayer.

The very low interest rates on bank deposits used in Poland in the recent years and the growing inflation mean that income from various forms of capital investments is becoming increasingly lower, or even bring real losses to their holders. In these circumstances, it is reasonable to lower the tax rate on such income. However, this postulate does not apply to all types of income. Consideration could be given to introducing differentiated tax rates for income from short-term (speculative) and long-term investments. The latter category includes investments in covered bonds, and income from interest or discount should be taxed at a rate no higher than 5%. The application of the 19% rate in Poland to the taxation of all types of income from both short-term and long-term investments is not rational in the situation of an unstable financial market. In other countries, tax rates in this respect are lower, e.g., in the Czech Republic (15%), Hungary (15%), and Russia (13%). Another solution could be to introduce a certain tax-free amount for long-term capital investments; in the cases where it is exceeded, only the excess would be taxed. The limit of the tax-free amount could be renewed from time to time, e.g., every 3 or 5 years. It is also necessary to clarify the limits of the exemption of income from interest and discount on covered bonds earned by non-residents. It cannot apply to all of them. The tax exemption should not be enjoyed by non-residents from the so-called tax havens.

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