

REAL ESTATE TAX REFORM

The necessity to reform real estate taxation system in Poland, far from being perfect, does not need justification. It is an effect of numerous factors, the most significant ones presented in the professional literature¹. It is commonly recognised that appropriate measures to complete the reform of the system should be undertaken as soon as possible. The present article describes the key steps which, in my opinion, would contribute to development of a reasonable system of real estate taxation.

1. It is necessary to collect regulations regarding real estate taxation in a framework of a new, single real estate tax. Today, the regulations concerning taxes on real estate are scattered between three legal acts. However, this phenomenon of imposing a burden of a few tax obligations on the same object (real estate), while these taxes remain mutually exclusive, is not an isolated concept in Europe, and the idea itself to replace three existing taxes with one deserves praise². The introduction of one tax would make the mechanism of imposing this property levy easier and contribute to the golden rule of transparent tax system.

2. Real estate tax base should be estimated according to the property's value instead of its area. Works to modify the real estate tax system toward introduction of *ad valorem* tax have been in progress for a long time in Poland. Unfortunately, in the Polish system the real estate tax rates are determined otherwise by the legislation. Apart from the real estate tax on buildings structures, the rates for other levies depend on the total or usable area of land, building or premises. Such state resembles calculating property with a measuring tape, i.e. the time when the extent of property could be measured with the area of accumulated lands, which in fact has been long forgotten. Today we experience situations when the same tax is levied on a person who owns a ruined shed and on an individual possessing a luxury holiday home (of the same area as the said shed). Therefore the government plans to

1 See R. Dowgier, L. Etel, T. Kurzynka, G. Liszewski, M. Popławski, E. Wróblewski, *Reforma podatków majątkowych*, Warsaw 2004.

2 M. Radvan, *Opodatkowanie majątku w Europie*, Prague 2007.

combine agricultural, forest and real estate tax into a single levy called cadastral tax, being a financial charge whose base would be the value of property (agricultural, forest or other) registered in the cadastre.

3. The system of agricultural taxation should be redeveloped, including property related to agriculture. In the present system the agricultural taxation is still a question, particularly with regard to agricultural property. In the current situation, taxes on property, agricultural tax in particular, are the only financial charge imposed on farmers, with an exception of incomes derived from special agricultural production. As general rules of revenue and income taxes do not apply to farmers, the agricultural tax construction is forced to be a kind of combination of revenue, income and property tax. Of course it is some fiction, nonetheless, it overshadows the agricultural tax outline. As far as agricultural taxation reform is concerned, measures to increase the agricultural tax and merge it with new real estate tax deserve support. Maintaining in the tax system a separate tax, levied exclusively on agricultural property, seems pointless. Increasing the agricultural tax does not mean that agricultural lands immediately lose preferential treatment, if *ad valorem* tax is imposed. The review of the situation in other countries proves that agricultural lands are being taxed in a relatively less bothersome way than other real properties.

There is also a need to change farmers' taxation, which would involve imposing income tax on them. It does not necessarily have to result in an increase of tax burden of this group. Farmers with the lowest income would not pay this tax at all or would pay very small income tax. Nowadays, an owner of 2000 ha of land with an agriculture enterprise built on it is exempt from the tax. Is it fair when compared with taxing the pensioners and the unemployed? Imposing income tax on the incomes related to agricultural production will provide uniform standards of business incomes taxation. The farmers in Poland will be no longer a privileged occupational group exempt from taxes.

4. Real estate taxation requires development of a register of property. At the moment, there is, in fact, no consistent and reliable record that could provide for an accurate assessment of taxes on real property. The area being base for agricultural, forest and property tax is supposed to be found in land or building register. Actually, we have only land register, as building register has not been developed until today. The data recorded in the land register, in particular classification of agricultural lands, are often out-of-date, which causes many obstacles for levying those taxes. That is why special registers for the purpose of taxation should be developed as quickly as possible by the tax authorities, as well as land and building registers ought to be updated and modernised. Improvement of those registers functioning will contribute to the creation of a fiscal cadastre in Poland.

5. Introduction of “green” taxes should be effected during implementation of property tax reform. Environmentally friendly solutions combined with tax regulations, as it is confirmed by the experience of other countries, bring excellent results. Property taxes, because of their nature, are great instruments of eco-friendly behaviour stimulation. In the Polish system, which was previously underlined, such solutions hardly exist. Consequently, it is necessary to introduce them when reshaping existing grounds for property taxation.

6. Current system of property tax exemptions has to be put in order. First of all, it is essential to limit the exemption extent and unify exemption granting rules. There are such property taxes which hardly provide a benefit to local budget because of an expanded catalogue of exemptions and statutory allowances. For example, statutory exemption of agricultural lands of classes V, VI and VIz,³ under the Act on Agricultural Tax, causes that municipalities having exclusively these classes of lands within their borders receive no income due to this tax. It should be to a greater degree left to the municipal council to decide on exemption at the territory within its control. Exemptions from local taxes forced by central legislation cut off the municipal tax incomes, which in such circumstances should be compensated by the national budget. In the present system, compensations (calculated while granting subsidies) are nearly eliminated.

The notion of “objective exemptions” should be erased from regulations allowing the council to decide on exemption. The interest of the taxpayers is secured well enough with the Constitutional restriction to establish tax exemptions only under an act of parliament. Pure objective exemptions are hard to identify correctly, which effects in many linguistic “freaks” in resolutions of councils. They emerge as a result of the councils’ attempts to avoid establishing other exemptions than objective while issuing a law without specifying its subject.

The model of exemptions being decided on in cooperation with local authorities should be offered by the legislation to much bigger extent. The exemptions under the Act on Agricultural Tax, which are imposed by a decision of *wojt* (*burmistrz*, city president),⁴ may be an example. Such exemption is provided by an act of parliament, but applied only after a taxpayer applied to tax authority. Detailed conditions to apply exemptions of this type should be regulated by council resolutions that would allow adjustment to local conditions.

3 Soils of those classes can be generally regarded as very poor or the poorest.

4 *Wojt*, *burmistrz*, city president are offices of the same level of heads of municipal authorities; their different names depend generally on the rural, urban-rural or urban character of a municipality.

7. A reform of local tax and levy system is indispensable. What we have today is a chaotic composition of financial charges, shaped in the former period, fiscally ineffective. Changing the rules of real estate taxation and introduction of cadastre should become the ground to develop a modern system of taxes and local charges. The taxation of real estate constitutes a major source of local authorities income in every system. As it is proved by experience, approximately 20–30 per cent of buildings and lands in Poland avoid taxations, for different reasons. The introduction of the cadastre, even without increasing tax burden, would contribute to a significant increase in local authorities income due to real estate taxation.

Excessive and unnecessarily complicated system of some local taxes in Poland should be made simple. The attempts, began in 2002, to make the Polish transport tax consistent with two EU directives on vehicle taxation resulted in the creation of the system complicated to the degree that neither taxpayers nor tax authorities have been able to indicate the accurate amount of tax obligation. This is because vehicle technical data, being a tax base, are hardly accessible or simply lacking in the available documentation. In such a situation, how can a taxpayer be expected to fulfil his fiscal obligations correctly?

The unreasonable system of updating transport tax rates should be also revised. The minimal rates are updated by euro exchange rate growth indicator while the maximum rates are updated by goods and services price growth given in PLN. Application of these two different indicators caused that the minimum rates exceeded the maximum rates, which required legislative reaction.

Similar problems arise as far as real estate tax is considered. The introduction of glossary of legal terms, which was intended to put an end to interpretation controversies, made them even grow. “Technical reasons”, “permanent connection to the ground” or “foundation” are good examples of terms defined in the glossary that will be long discussed to develop their uniform interpretation, which directly impacts on the amount of tax due.

8. Concluding, it must be stated that Poland needs a reform of outdated regulations on real property taxation, but first and foremost development of cadastre and *ad valorem* real estate tax. The current Polish tax, based on the area not on the value of real estate, is a relic of communist period. Real estate tax reform is the most important part of recommended modifications to the tax system, because of organisationally difficult and very expensive development of cadastre. It is not insignificant that the Poles are afraid of *ad valorem* real estate tax, expecting it to increase tax burden imposed on real estate. That is the reason why the cadastre based system and *ad valorem* real estate tax, having been introduced for over ten years by now, have no chance for quick implementation. Step-by-step evolution of area real estate tax into *ad valorem* real estate tax is the solution to the problem.

Streszczenie

Polski „system” opodatkowania nieruchomości jest bardzo daleki od doskonałości. Potrzeba jego jak najszybszej reformy nie wymaga głębszego uzasadnienia, tym bardziej że zagadnienie to zostało dość dobrze opisane w literaturze przedmiotu. Wiele rozwiązań dotyczących opodatkowania nieruchomości jawi się jako archaiczne, niedostosowane do realiów nowoczesnej gospodarki. W niniejszym artykule przedstawiono główne kierunki postulowanych zmian w opodatkowaniu nieruchomości w Polsce.