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## **Lessons from the experience of fiscal reform in Poland**

### INSTEAD OF INTRODUCING

The real changes of the state status in Poland from an enterprise's owner to its shareholder were introduced on the strength of the Act on Financial Economy Within State-owned Companies of January 31, 1989. In consequence of these changes, enterprises had to pay an obligatory dividend. It constituted 44% of the net value of productive wealth, which was treated as the founding capital and, after its amendment, as a result of the government's stabilization plan and systemic transformation, it was reduced to 33%. After the implementation of the Balcerowicz Plan, dividend income decreased from 6.6% in 1990 to 5.4% in 1991. However, this reduced transfer of income from enterprises to the state budget was still tremendous and, in the situation of unusually high interest rates, it became a microeconomic anti-stimulus of the modernization of productive capital. The state did not also use the income obtained in this way from enterprises on restructuring and modernization of productive capital, but on limiting the unproductive budget deficit and the maintenance of the constantly growing public debt inherited from the centrally-planned economy.

The Corporate Income Tax Act of January 31, 1989, unified the regulations of tax rates for all business entities irrespective of their form. Simultaneously, the tax burden of profits was reduced from 65% to 40%. However, these were still anti-modernization fiscal charges because they denoted a transition via the state budget from economically effective to ineffective ones.

Formally, the government's responsibility for shaping the production structure and its financial security was lifted only by Sejm's repeal of the Socio-Economic Planning Act in September 1990. Moreover, the removal in the years

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1989-1991 of the so-called intermediary structures of economy, which grouped together enterprises from energy, coal and transport industries, and 20 special purpose funds, was also of huge importance.

A deregulation scale connected with the reduction of enterprise subsidies is illustrated by the fact that in 1989 the subsidies constituted 28.5% of total expenditures of the central budget and in 1990 – only 17%. However, more efficient business entities continuously had to support those that could not generate a financial surplus.

A severe crisis of public finance, which took place at the turn of the first and the second quarter of 1991, accelerated the decision about the implementation of a tax system reform. The crisis exposed with all its severity not only the results of shock macroeconomic stabilization and deregulation, but also the lack of functionality of the centrally-planned economy's fiscal regulations. In the case of Poland, the lack of coherence between taxes from 1980s and a liberalizing economy, as well as economic and social goals that resulted from systemic changes, was connected with:

- unequal treatment of particular sectors of economy irrespective of their legal form;
- fiscal barriers of capital accumulation and business activity;
- replacement of taxes by reducing people's incomes using state-administrated salaries and prices which were distorting the conditions of economically rational decisions of business entities;
- no guarantee of easily collected incomes in the required amount to secure the implemented goals of social policy.

Ownership discrimination, instability of tax burdens and big discretion, which characterized a post-socialist fiscal system, were unacceptable in a democratic state under the rule of law and competitive order. However, fiscal reforms took place gradually and were introduced with a delay despite shock deregulation and microeconomic stabilization.

During the first four years of the economic transformation, when the foundations of the new tax system were laid down, the liberal option was the dominating one.

Until 1994, the changes of tax system were directed at neutralizing budgetary policy and ensuring macroeconomic stabilization. Fiscal policy was not used to any extent to finance development goals and to modernize productive capital, which was inherited after the centrally-planned economy and depreciated to a considerable extent. Except of the actions undertaken as a part of the "Strategy for Poland" program implemented between 2004 and 2007 and certain actions as a part of "Entrepreneurship – Development – Work" programme in the years 2002–2003, which aimed at the development of small and medium-sized enterprises<sup>2</sup>, the syndrome of anti-modernization fiscal policy turned out

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<sup>2</sup> The characteristics of this program and its results, see: [Woźniak, 2006, p. 140–154].

to be permanent despite later corrections. Poland has never had a fiscal surplus even in the years with a high, positive level of demand gap. The attempts to limit fiscalism by reducing taxes and removing tax reliefs and exemptions were in contradiction to the needs of the modernization of depreciated wealth of post-socialist enterprises. In accordance with the recommendations stemming from the neoliberal consensus and as an answer to the challenges posed by globalization, modernization by privatization and an inflow of foreign capital were chosen, which did promote social cohesion. However, it should be noted that they had a positive effect on increasing the average level of life measured by the GDP growth per capita. Fiscal policy was also not properly connected with rational social policy. Regulations of social policy were adopted from the centrally-planned economy, which were not explained by healthy criteria of social solidarity that did not undermine the mechanisms of self-responsibility of an individual for its prosperity. In fear of negative consequences of market facilitation in the form of high unemployment and increasing social inequalities, new social benefits and privileges were introduced. With time, politicians pursuing rent seeking started to compete in inventing new rigid expenditures from the budget or in increasing existing incomes by enacting privileges under the law for groups or economy sectors. Together with the actions to limit state fiscalism according to the recommendations of supply-side economics and low efficiency of the state in debt collection, a lasting tendency was exposed for a high participation of rigid expenditures in the central budget, as well as a budget deficit enacted by laws. Most often, they exceeded 70% of the total expenditures of the state. At the same time, the economy got stuck in a permanent budget deficit which, in the periods of economic downturn reached such levels that were difficult to oversee by the state resulting sometimes in a growing risk of uncontrolled public debt.

Continuous amendments of tax regulations, especially of VAT, attempts to eliminate progressive taxes and excessive fiscalism, contrary to expectations, did not create a favorable climate for modernization of the economy. Privileged treatment of tax payers with the highest income was expressed in functioning of practically quasi-flat-rate personal income tax with two tax rates since 2008 (19% and 32%). It encouraged import of luxurious consumption goods, as well as the insufficient use of demand potential of tax payers with the lowest income to stimulate the local production of everyday goods, and, at the same time, to modernize the sector of small and medium-sized enterprises. What was missing in the budgetary policy was a consistent and related to the social and economic cohesion system of tax adjustment. Indexation rates were chosen under the pressure of current needs and under the pressure exerted by the strongest interest groups without deeper analyses of integrated benefits and costs over different time horizons. The only action of the state in the sphere of fiscal policy that was consistent and coherent with the logics of intensifying competition were successive and multiple income tax reductions of corporate income tax from 40% in 1996 to 19% in 2004.

In the implementation of the fiscal reform, obeying the principle of tax rule centralism was considered necessary. However, it was limited to a centralized mode of setting fiscal principles. Thanks to that, it was possible to decentralize the public finance and transfer a part of taxes and fees to local authorities.

The accession of Poland to the European Union was connected with solving the problem of tax harmonization without which a free flow of goods, capitals and people guaranteed by the uniform European market of EU signatories would cause a distortion of competitive order, difficulties in intensifying integration processes and economic cohesion. The need to harmonize taxes was signaled already in the Treaty of Rome (art. 83). When it was being drafted, people thought that implementing an idea of a uniform internal market requires merely harmonization of indirect taxes and abolishing customs barriers.

The development of integration processes and an increasing role of transnational corporations has currently revealed many issues connected with differentiation of direct taxes, especially those related to the phenomenon of unfair competition resulting from these differences or difficulties in the flow of capitals and incomes from capitals, tax influence on labor costs and connected with it labor migration, transfer of taxes on the international scale, so tax dumping. A problem of tax justice in an international dimension appears. All these issues were the fundamentals of a general tendency to reduce direct taxes. However, these reductions have features of spontaneous harmonization, which, according to its characteristics, remains in a loose relationship with the problem of tax justice and fair competition.

Thus, the issue of direct tax harmonization, except the subject of indirect tax harmonization that was already touched upon, becomes an even stronger issue in a tax debate in the EU. Substantive decision-making process about harmonization of direct taxes requires answers to many questions regarding its influence on:

- the state budget and the imbalance of public finance;
- the possibility to lower taxes imposed on personal incomes if the harmonization of direct taxes led to the reduction of public incomes;
- the effects for labor mobility, attracting foreign investments and motivating national entrepreneurs to invest;
- the acceptable range of an economic rent implementation by transnational corporations and the relocation of public debt resulting from this rent among countries.

The basic premise of tax law harmonization is an uncompromising requirement which forbids acquiring unjustified benefits by a given Member State as a result of the application of tax laws. Discrimination or tax privileges for regions, production branches or enterprises undermine the fundamental rules of efficient markets, especially the requirements of equal conditions and uniform competition rules<sup>3</sup>.

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<sup>3</sup> The European Commission touched upon the issue of excessive differentiations of tax systems and harmonization actions in 1985. In the White Paper on completing the internal market, 282 proposals were presented regarding the removal of physical, technical and fiscal barriers of creating

Direct tax harmonization is complicated by the fact that it was not included in the treaty which created the European Community (TEC). Based on it, to tax matters applies the principle of subsidiarity. Therefore, the Community can interfere in an integration issue only when particular countries cannot fulfill these goals on their own. However, based on the art. 94 of TEC, harmonized are legal regulations which directly influence how the internal market functions. All possible actions to harmonize the tax law which result from this article require, however, respecting the unanimity principle of the European Council to adopt a law (art. 308 TEC). These procedural requirements, in relation to different effects of tax harmonization in order to implement social and economic goals in particular countries, cause that this process is taking place with huge resistance. Currently, there is no coherent tax law which would be binding in the whole EU. The only exception are indirect taxes.

Creating a common internal market envisioned by the Treaty of Rome and the removal of border controls on January 1, 1993, forced the necessity to prevent double taxation, the lack of taxation and interferences with competition.

The problem of differentiation of direct taxes and their meaning to the free flow of work and capital has been visible for many years. However, according to art. 94 of the Treaty of Rome, what should be harmonized are legal regulations that directly influence the functioning of the common market. Harmonization of direct taxes can be allowed when different provisions included in legal regulations could limit the freedom of income flow, dividends, interests, concession fees, and capitals among the Member States. Therefore, basic elements of how direct taxes are constructed cannot be harmonized. Difficulties are created by the unanimity principle.

Due to the above-mentioned limitations, harmonization applies above all to personal incomes of natural persons. These entities, by conducting business activity in an international dimension, influence the exchange of goods and services, and the flow of capital among countries. Because personal incomes exert influence on the functioning of markets mostly in the local dimension, harmonization of personal income tax applies only to double taxation of people working within the so-called local border traffic among EU countries.

#### FISCALISM OF NATURAL PERSONS

The Personal Income Tax (PIT) Act was implemented at the beginning of 1992 and it was amended frequently regarding tax reliefs, income reductions and tax deductible expenses. These amendments were made under the influence of

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the uniform internal market. From that moment on, every year, a report on how these goals are being implemented is presented to the European Council.

harsh negotiations regarding political and professional benefits, which did not help the rationalization of this tax to harmonize the criteria of economic effectiveness and social solidarity.

Until the year 2003, personal income tax had formally a progressive character, as there were three tax thresholds slightly modified in time (20%, 30%, 40%) and from 2009 there were two scales: 18% and 32%. It was actually a quasi-flat-rate tax as the third threshold applied to only ca. 1% of tax payers, and the first one – 95% of tax payers. Despite it, the latter supplied the state budget with a bit more than 50% of income and the third-threshold tax payers – more or less 30% of income. The reduction of the third tax threshold turned out to be a significant reason for budget deficit during the economic downturn from the third quarter of 2008 due to the outbreak of the world financial crisis. Since the communist state did not levy personal income tax on workers, tax thresholds set on an average European level contributed to the feeling of common injustice. It caused the tendency by tax payers to lower their real incomes and to escape<sup>4</sup> into the grey zone.

In the face of increasing depopulation processes, the lack of visible pro-family character is the weakness of the tax system that was adopted, even though there is a possibility for joint taxation of spouses. The benefits derived from it, for a family in which spouses have incomes to which different tax thresholds apply, are not oriented at increasing the number of offspring.

The universal character of tax denotes that taxed are all personal incomes of natural persons earned nationally and internationally (except the incomes of farmers which fall under another type of tax: agricultural tax) lowered by:

- tax-free minimum<sup>5</sup>;
- tax deductible expenses applicable to employment, professional and home-based relationships depending on the number of workplaces.

This universal character is expressed also in the non-use of personal exemptions except disabled soldiers. However, what was envisioned was quite a broad catalogue of transaction-related exemptions that grew in time and was mostly of social character (unemployment benefits, gratuities, financial assistance, scholarships), investment character (income earned in a special economic zone) and of economic character. Very important for the social and economic cohesion were construction and property tax deductions, which no one secured due to Poland's accession to the EU.

Beneficial for the creation of small enterprises are standard tax deductible costs in the amount of 20% and 50% of income. Tax deductible costs amounting to 20% are applied to:

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<sup>4</sup> The Personal Income Tax Act of July 26, 1991, consolidated text: J.L. of 2012, No. 51, item 307.

<sup>5</sup> The tax-free minimum is much lower than the social minimum. In 2013 the tax free quote was 2091 PLN annually while the social minimum was on the level of 828,73 PLN monthly per person (in a household of five people) up to 1064,76 PLN monthly per person (in a household of a retiree or in a one-person household) [IPiSS, 2011].

- income derived from personal artistic, literary, scientific and journalistic services;
- remuneration for commissioned activities by authorities or state and municipal administrative organs, courts and prosecutor's offices;
- income derived from contractual employment if these services are not performed for the public.
- Whereas tax deductible costs amounting to 50% are applied to:
  - payment or license fee, transfer of ownership of an invention, an integrated circuit layout design protection, a trade mark or a design patent;
  - copyrights and related rights or disposing of these laws.

Personal income taxation may follow general and specific terms: flat-rate income tax on registered income, tax card, flat-rate income tax on church income. General terms apply to every natural person. Beyond the scope of the Personal Income Tax Act remain: an income derived from agricultural activity except an income derived from special departments of agricultural production, forestry, from inheritance and donations, wealth division by spouses, actions that cannot be the subject of a legally binding agreement.

An income earned abroad is exempt from taxation in Poland if it is stated by an international treaty for avoidance of double taxation or another international agreement to which the Republic of Poland is a party. However, an income earned in countries to which the regulations of treaty for avoidance of double taxation do not apply, are taxed according to the general terms, but the applied tax is reduced by the value of the tax paid abroad from the income earned in a foreign country.

In Polish tax law exist two forms of a flat-rate income tax for natural persons conducting business activity – tax on registered income and tax cards. Introduced in 1994 a flat-rate tax is used to simplify the taxation of small enterprises. It is one of the elements of tax harmonization between Poland and the European Union legislation. A flat-rate income tax on registered income can be used by natural persons conducting business activity, partnerships and registered partnerships. A flat-rate tax can be applied only to entities which in the previous tax year acquired a total income not greater than 150 000 EUR<sup>6</sup>.

There are a few amounts of flat-rate tax regarding:

- 1) the professions – 20% of income;
- 2) the income derived from service activities, private lease, commission sales, distributor's activity, services connected with running kindergartens, fire safety, productions from customer-provided material – 8.5% of income;
- 3) the manufacturing activity, construction works, car transportation of over 2 tons payload, commission on commercial activity listed in the Act – 5.5% of income;

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<sup>6</sup> In the years 2003–2007 this limit was 250 000 EUR, and is still valid.

- 4) service activity in trade or catering (except the sale of alcoholic beverages with an alcohol content of over 1.5%) – 3% of income.

The Act states also the conditions allowing for a flat-rate tax exemption and the possibility of tax deductions and covering losses from previous years. From a flat-rate tax may be deducted mandatory health insurance contributions and tax reliefs for the non-governmental organizations (up to 1% of tax).

Entities taxed with a flat-rate income tax on registered income do not have tax ledgers or tax registers of revenues and expenses. However, they are obliged to register their income, equipment, keep all receipts and have a register of all fixed and intangible assets. There is also a possibility of taking a tax credit. The settlement of flat-rate tax takes place on a quarterly basis.

A tax card method of taxation has functioned since 1992. It can be used by natural persons who conduct business activity on their own in the form of a civil partnership. The objective scope of taxation encompasses a service and production activity, a retail trade activity, non-alcoholic catering activities, an activity conducted within the scope of the professions and educational services, home care for children and ill people, veterinary and entertainment activity. The employment limits up to five employees are presented in the tables, separately for particular types of activity. They can be increased in the municipalities with a particularly high unemployment rate and directed at persons who run agricultural holdings at the same time.

Supporters of the liberal minimal state blame this tax construction for annual losses for the budget of ca. 10 billion PLN due to the joint tax settlement of spouses, the lack of neutrality because of different tax reliefs and deductions from the tax base, high costs of tax collection, favoring the activity of small enterprises in the grey zone and weakened stimuli to boost effectiveness which existed in the case of one-threshold flat-rate tax without any preferences. In order to increase the state budget revenues, strengthen the neutrality of tax and limit the costs of its collection, the number and the scope of tax reliefs were restricted from the year 2000. In the corrections of this tax, arguments in favor of enhancing social cohesion lose against the arguments in favor of short-term political goals and limiting the budgetary imbalance. The supporters of social solidarity associate the changes of this tax with ignoring the support for families, favoring reliefs which benefit the richest, the lack of connection between the tax-free threshold and poverty threshold.

Heavy differentiations of personal income tax in the EU concern (Table 1) setting the tax base as well as the rate levels, different treatment of income sources, different tax thresholds and tax reliefs, which, in addition, are subjected to frequent and intensive fluctuations. These differentiations are the reason of many problems that make difficult the implementation of harmonized policy of social and economic cohesion. In comparison to other countries of the UE-27, Poland attaches considerably small importance to the personal income tax as a tool of shaping social and economic cohesion.



In the majority of countries, a tax-free threshold corresponding to the biological minimum is used. Its high differentiation in comparison with the differentiation of fiscal burdens of natural persons is the reason of labor migration, even though it should be emphasized that in the case of Poland and the majority of new Member States more important is the variation in salaries. Average net monthly salary in Poland in 2013 amounted to 842 USD. However, a wide strip of average net monthly salary in the EU is between 2000 and 3000 USD if Luxembourg is excluded (4730 USD) and Denmark (4037 USD).

Due to existing or predicted tensions on the EU labor market in many countries connected with the aging of societies, high variation of personal income tax becomes the source of resistance against the harmonization of this tax and encourage to continue the tax competition. Tax problems of people changing their place of work and residence between different countries are based on the rule of avoidance of double taxation stated in agreements among particular countries.

#### FISCAL DEREGULATION OF LEGAL PERSONS

In the matter of directing the modernization processes, of special attention should be the corporate income tax (CIT). This tax is under the conditions of market economy a parameter of investment decisions, costs of acquiring capital, profitability of starting up another business activity. Transferring the burden of investment decisions from the state to the economic entities as result of deregulation and liberalization of the economy, imposed the necessity to reform this tax<sup>7</sup>. As result of it, in 1992 were introduced uniform rules of imposing CIT regardless of the type of ownership, organization, its legal form and the sector to which a given business belongs.

Numerous amendments of the CIT Act were about a gradual lowering of the tax rate from 40% in force since 1996, up to 38% in 1997, 36% in 1998, 30% in 2000, 28% in 2001 and 19% since 2004 (Table 2). In result, Poland together with Slovakia, Slovenia and Czech Republic found itself in the group of EU-27 countries with a relatively low CIT. However, even lower CIT is in Ireland (12.5%), Romania (16%), Lithuania and Latvia (15%), Cyprus and Bulgaria (10%). Nevertheless, the highest CIT rates are applied in Malta – 35%, in France – 33% and in Belgium – 34%, Italy – 31.4%, Spain – 30%, as well as in Germany – 29.8%. In Poland together with the reduction of CIT rates reduced were also initially numerous (over thirty) subjective exemptions, from which only a few have remained since 2007. They apply to income derived from selling a whole or a part of property belonging to an agricultural holding, income of taxpayers whose statutory aim is scientific, technical, educational, cultural

<sup>7</sup> The Corporate Income Tax Act of July 15, 1992.

activity, supporting social initiatives devoted to those aims, income earned from economic activity carried on within a Special Economic Zone, subsidies received from the state budget and the budgets of local government, legal persons of the Catholic Church and income derived from running raffles. The total amount of tax deduction due to donation cannot exceed 10% of income. Donations to natural persons, legal persons and some organizational units that have no legal body (producers of fuel, alcohol over 1.5% of alcohol content, tobacco, electronics and those who produce from precious metals or with these metals) are not tax deductible. Irrespectively of PIT and CIT, a tax on share sales in public trading functions since 1995 and a tax on games of chance.

From January 1, 2011 pursuant to the changes in the Personal Income Tax Act, the Corporate Income Tax Act and the Act on flat-rate income tax from some revenues of natural persons [J.L., No. 226, item 1478], the catalog of subjective exemptions from corporate income tax was broadened. The amendment of the Act specified or supplemented binding regulations of the CIT Act, sanctioning the equal treatment of Polish and foreign investment and pension funds. Exempt from CIT were also foreign counterparts: institutions of free investments with the registered office in a Member State or another country within the European Economic Area (EEA) and tax payers running a pension fund with the registered office in a Member State or another country within the European Economic Area (EEA).

A serious problem from the point of view of economic cohesion of uniform EU market is high variation in CIT. This variations favor, on the one hand, unfair competition and, on the other hand, they are important stimuli to boost modernization and Foreign Direct Investment (FIZ) inflow to the less-developed countries, to which Poland belongs, applying usually lower rates of this tax than average for the UE. Although since 2005 can be observed a visible tendency to reduce CIT rates, still extremely different scales of this tax exist.

Regarding CIT harmonization, two directives and one convention were signed. The directives regard the common system of taxation applicable to mergers, divisions, transfers of assets and exchanges of shares concerning companies of different Member States. Any surpluses in the value of the wealth components as result of the above-mentioned processes are not the basis for taxation of any partnerships or partners. [Council Directive 90/434 of July 23, 1990]. This solution is supposed to simplify the restructuring undertaken in order to improve the position of a partnership. Another element of harmonization of taxation of enterprises is adopting a rule that taxation of dividends of international companies cannot be stricter than of national companies. In practice, the implementation of this rule looks as follows: if the share of Parent Company in the capital of its Subsidiary with the registered office in another Member State is at least 25% then transferred profit by its Subsidiary is exempt from tax.

Council Directive 2003/49/EC of June 2003 states that royalty payments made between Parent Company and its Subsidiaries are treated as internal cash transfer of a business organization and shall be exempt from any taxes in that State provided that the beneficial owner of the payment is a company or permanent establishment in another Member State.

Also in the form of a directive are regulated the rules of taxation of dividends and profits from stock ownership for international enterprises. Two solutions are possible: taxation of the company and resignation from the taxation of shareholders or the opposite: the company does not pay tax on the dividends paid to the shareholders and the tax duty lies on the shareholders or stakeholders. However, regarding national enterprises, in dividend taxation applies the law of a given Member State.

The perspectives of CIT harmonization despite the efforts since at least 6 years, are not optimistic. It results from the fact that the biggest Member States – France and Germany – have high fiscal needs connected with social expenditures. In this situation, they aim at harmonizing CIT rates close to the level of 30%. However, countries with smaller social needs, even if they have relatively high CIT rates, e.g. the Netherlands, Austria or Sweden are against it. Despite the fact that the global crisis caused the steering of the CIT harmonization concept towards the so-called Common Consolidated Corporate Tax Base (CCCTB)<sup>8</sup> whose benefits would be connected with the transparency and lower costs of tax settlements, especially for the sector of small and medium enterprises, then the improvement in EU economic competition would not be linked with benefits for the countries applying up to now CIT rates that are lower than average.

## HARMONIZATION OF INDIRECT TAXES

The main source of budget revenue in Poland are indirect taxes. Therefore, the greatest tax reform challenge was introducing on July 1, 1993, the goods and services tax (GST). Its construction was adjusted to the common system of VAT (Value Added Tax), which ensures ca. 40% of state revenue, and which started with the ratification by the European Communities on May 17, 1977 of the Sixth VAT Directive of the Council of the European Communities, amended many times<sup>9</sup>.

As result of this Directive all multi-stage cascading taxes applied in the countries that belonged at that time to the Community were replaced by the value-added tax (VAT). However, particular countries maintained full flexibility to set tax bases and tax rates.

<sup>8</sup> In Polish: wspólna skonsolidowana podstawa opodatkowania osób prawnych.

<sup>9</sup> Currently, a new legal act regulating all elements of VAT construction is Council Directive 2006/112/EC of November 28, 2006, J.L., No. 54, Item 535 (as amended).

The subject of the harmonization were: the subject of the tax, taxable activities, tax base, tax exemptions, the mechanism of deducting tax from the due tax and the taxation of small enterprises, agriculture and tourist offices in the system of VAT. It meant the necessity to unify all elements of its construction except rates and the rules of its collection. The VAT rates are set by each Member State individually. The tax rate cannot be lower than 15% and the rates considerably lowered cannot be smaller than 5% if we omit the transitional period. VAT replaced five binding indirect taxes so far: a sales tax and a turnover tax.

The goods and services tax is applied to trade in goods, so:

- payable delivery of goods and services on the territory of the Republic of Poland;
- export and import of goods;
- purchase and delivery of goods inside the EU with the remuneration paid on the territory of the Republic of Poland.

In the goods and services tax, four types of tax rates were used:

- 1) Standard 22% – applied to all goods except export of goods and services and trade in goods and services inside the EU restricted for other tax rates.
- 2) Reduced 7% – applied to goods and services connected with agriculture and forestry, health care, food products, books, magazines and newspapers, transportation services, local artistry, selected services for the public inclusive of services encompassed by the program of social housing.
- 3) Rate of 3% from May 1, 2008, until the end of 2010 was applied to agricultural products and agricultural services listed in the Act.
- 4) Rate of 0% which is applied generally to the taxation of export of goods and delivery of goods within the EU, as well as selected goods and services on the territory of the Republic of Poland, e.g. selected shops, a part of sea transport, means of air transportation, international transportation, delivery of goods to duty-free zones.

Numerous amendments since May 2004 to the complicated and unclear VAT Act in force became a nightmare for the entrepreneurs. They became the source of many mistakes in its settlement and high costs of its collection. This situation fostered finding ways to omit this tax by non-invoiced turnover. It also hindered the forecasting of the effects of taxes on the economic goals. The real threat of exceeding in 2011 the second prudential threshold of 55% national debt to GDP ratio and the risk of destabilization of public finance if the debt continues to grow, as well the necessity to increase VAT rates resulting from the EU directives binding Poland, imposed the increase of this tax. Based on the Act of November 26, 2010, on changes of some acts connected with the implementation of the budget act, the fundamental change was the increase in VAT rates (from 22% to 23% and from 7% to 8%) from January 1, 2011. At

the same time, the VAT rate for basic food products was lowered from 7% to 5% (it is, among others, bread, edible oils, dairy products, hams, groats, flour, pasta, fruit and vegetable preserves, e.g. juices, soft drinks, frozen food). Since January 2011 to the unprocessed food, books and specialized magazines applied the lowest allowed by the EU law VAT rate – 5% (until that time it was 3% and 0%). Instead of an increasing social and economic cohesion reform of public finance sphere that eliminate unjustified by criteria of economic effectiveness and social legitimacy privileges of different social groups, the government foresees also further 1% increases of VAT until its maximum level of 25% if the economic growth does not speed up and it is not possible to curb the increase of government expenditures.

The liberalization of economy and reduction of customs barriers connected with the adjustment of the internal market to the regulations of the EU showed very clearly the low competitive ability of economic sectors and branches of Poland. In order to protect the internal market against unfair competition, specific taxes were introduced during transition periods. Such character had a levy introduced in 1994 on selected agricultural goods and food products brought from abroad [J.L. of 1994, No. 43, item 160]. This tax was directed at the protection of agricultural market from the pricing policy called dumping. In 1996 this tax stopped being collected.

In reaction to chronic adjustments of post-socialist enterprises to the requirements of open markets and harsh criticism by many communities of too extensive opening of the economy for foreign goods, in the years 1994–1996 an import tax with a high 6% levy was introduced. It was reduced to 5% in 1995 and to 3% in 1996 and in the next year due to very good economic results of enterprises, the tax was lifted.

Most controversial was the tax of excessive wage rise which functioned until 1996. In practice, this type of an economic regulator was incompatible with the criteria of economic efficiency and commonly respected criteria of social justice. It also turned out to be an unreliable tool of disinflation and the source of delaying adjustments of active business entities. The fact that it was lifted clearly improved the conditions of human resource policies of enterprises, therefore allowed for their modernization.

In Poland, similarly as in other EU countries, function other direct and indirect taxes. Except for excise duty, they all are of marginal character from the point of view of budgetary revenues. The attractiveness of excise duty as a supply source of the state budget results from the fact that it is an efficient tax easy to collect which is illustrated by continuously increasing revenues from it in Poland. In 1994 they constituted 14.3% of state budgetary revenue and, currently, almost 22% and almost 30% of tax revenues. While setting excise duty rates, taken into consideration are the needs to curb consumption resulting in the high

risk of negative health and social effects. However, the most important source of revenue from excise duty are motor fuels – in 2008 they constituted 45.8% of state budgetary revenue from excise duty. The second group of excised goods when it comes to revenue are manufactured tobacco products (26.7%) and the third one – alcoholic beverages – 18.5% of revenue from excise tax. The smallest share in the state budgetary revenue is the revenue from electricity taxation (5.3%) and passenger cars (3%).

The structure of excise duty, similarly to the tax on goods and services, changed considerably until 2004. Since the moment Poland joined EU, its structure was adjusted to the European Union standards, which have been based since 1993 on the harmonization of excise duties with a huge fiscal importance for budgets of particular countries, as well as on allowing excise duties with local effects without harmonization and elimination of excise duties of relatively low fiscal efficiency or including them into the common turnover tax.

Differentiations of the basic and discounted rates constitute in some cases a hindrance to the free flow of goods and services. However, they cannot be eliminated because of the unsolved issues of direct tax harmonization, various social and budgetary problems of particular Member States.

The harmonization of excise duty with the EU standards meant narrowing the excise duty products to motor fuels, heating oil, gas, energy, passenger cars, cosmetics, beautifying agents, perfumery products, fur products, articles made of furskins, playing cards, equipment of entertainment activity facilities, and hunting and gas weapons.

In order to ensure the full compatibility of solutions regarding turnover and taxation rules, and exemptions from excise duty with European Union provisions, a category of harmonized excise goods was singled out. There is a possibility of suspending the excise duty on harmonized excise goods until the moment of delivering the goods for consumption (for the time of storage). There are no reliefs or exemptions from excise duty. Excise duty rates are expressed in:

- percent of tax base;
- amount per unit of goods;
- percent of maximum retail price;
- amount per unit of goods of maximum retail price.

The Excise Duty Act does not state final binding rates of excise duty. It authorizes the Minister of Finances to do it specifying the premises that he should take into consideration while setting the excise duty rates. The base for changing the excise duty rates for a given year are minimal rates resulting from the provisions of the EU law and premises of the budget act.

Based on the Act of November 1984 functions in Poland an agricultural tax incoherent with the PIT [J.L of 2006, No. 136, item 969 as amended]. This tax, from the point of view of social criteria, has all the flaws of flat-rate tax

and at the same time does not foster the modernization of agriculture in the direction of large agricultural holdings. This tax is charged on agricultural holdings exceeding 1 conversion hectare. It is set by the commune head, mayor or the president proper from the perspective of the land location. The payments are payable in four installments for the land of agricultural holdings in the amount constituting 2.5 quintals of rye, for the rest of the lands – 5 quintals of rye.

Regarding the forest area is used a forest tax [J.L. of 2002, No. 200, item 1682 as amended]. It constitutes the financial equivalent of 0.22 m<sup>3</sup> of wood. In forest tax are anticipated subjective and objective exemptions.

Losing on importance is also the tax on inheritance and donations normalized by the Act of July 28, 1983 [J.L. of 2004, No. 142, item 1514 as amended]. It is a progressive tax with a continuous scale: 3% for a group of entities from the so-called first tax group, 7% for the second tax group, 12% for the third tax group. The Act specifies also the possibility of acquiring a socially justifiable tax relief granted in case of an acquisition of a dwelling building, by excluding from the taxable base the value of upmost 110 m<sup>2</sup> of utility area. From January 1, 2007, exempt from tax on acquisition of ownership or property rights from a person belonging to so called first tax group (including spouses, children, grandchildren, parents, grandparents, stepchildren, stepparents and siblings).

The Act of January 12, 1991 [J.L., No. 121, Item 884, consolidated text as amended] regulates the real estate tax. This tax is levied in the amount of 2% of the value of the structure from m<sup>3</sup> of land and buildings designated for the conduct of business. This act allows subjective exemptions. Of a similar character is the tax on means of transport. Its amount is set by the municipal council based on a rate range specified in the Act.

Local duties should be added to the taxes. In the current system those are: stamp duty, administration fees, local charge, market fee, parking fee and tax on civil law transactions.

## CONCLUSIONS FOR THE FUTURE

Experiences in the area of fiscal regulations in Poland and activities harmonizing these regulations allow drawing a few conclusions in the context of modernization oriented at social and economic cohesion<sup>10</sup>.

A tax system that fosters the social and economic cohesion should respect not only the aims of such a development strategy, but also the specificity of spatiotemporal modernization conditions. It also cannot be shaped while being

<sup>10</sup> An interesting and yet comprehensive assessment of the tax system in the context of a prudent socio-economic policy proposes [Żyżyński, 2009].

detached from the reality of the modern world economy, which remains under a strong influence of competition based on widely understood innovations of internationalization of economic processes, connectivity of structures of market and public sectors and the social and political sphere. In its solutions must be respected requirements resulting from the Polish membership in the EU, with which connected is a tendency to intensify tax harmonization. Any other obligations resulting from the membership in other international organizations (WTO, OECD) and ratified conventions must also be respected. It is emphasized in the case of indirect taxes as they are subjected to the directives harmonizing taxes in the EU and tariff regulations. These external limitations constitute also arguments of the supporters of marginalization of tax reliefs as tools that steer modernization towards social and economic cohesion. From them results also an increased role of indirect taxes in securing fiscal needs of the state and marginalizing wealth taxes.

A unique feature of the Polish tax system is a radical reduction of the CIT from 40% to 19%, which curbs the possibility of the state to influence modernization processes with the help of tax reliefs. It is beyond doubt that for Poland the aim of fiscal policy should be the creation of a competitive tax system. An investor-friendly tax system seems to be one of few encouraging the inflow of foreign investments of economic assets for the post-socialist economy that is not satisfactorily saturated, a structure of intellectual capital that corresponds to the needs of an economy based on knowledge and, additionally, unevenly concentrated in a spatial dimension [Wosiek, 2012, s. 49–74].

A redistribution on the level of almost half of the GDP as based on the example of Scandinavian countries<sup>11</sup> which is demanded by radical supporters of social welfare state, cannot be applied in the case of a country with an average level of GDP per capita and a relatively small demand of the internal market. Such a high redistribution of income to the state budget becomes a serious hindrance to development and usually hinders modernization in order to achieve social and economic cohesion and, practically, excludes real convergence. Facts prove that such a high level of redistribution without greater damages to the dynamics of GDP can only be by the richest countries under favorable conditions. In EU-27, the burden of GDP with total taxes in 2012 amounted to 39.4% and was higher than in the USA by 11%. In Poland this indicator was on the level of 32.5% – it decreased since 2002 only by 0.2%. Due to the level of economic development, annual cumulative budget deficits and an increasing public debt, which in 2010 amounted to 55.7% of GDP, the government lost the room for maneuver in the matter of strengthening modernization aiming at social and economic cohesion by the means of increasing government expenditures. There was only small room for maneuver in the area of rationalization of the structure of government expen-

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<sup>11</sup> Norway 45.9%, Sweden 53%, Finland 55.1%, Denmark 58.2%, data for 2010 [Eurostat, 2011].



ditures, the structure of taxes and tax reliefs allowed within the framework of the legal order of the EU.

Despite the fact that the share of public expenses in the GDP in Poland is lower than in the old EU countries, then it remains quite high in relation to modernization needs of the economy and is connected with the functioning of non-competitive fiscal burdens regarding many countries competing for acquiring foreign investors.

Therefore, the solution to the problem should be found in the rationalization of the budget expenditures by eliminating the unfounded criteria of social legitimacy of social benefits and by reducing excessive institutionalization of the economy. Such approach would contribute to the limitation of transaction costs of the functioning of the state and strengthening the mechanisms responsible for self-responsibility of business entities and just social inequalities.

In the long term, social well-being is easier to build when the market economy is the least limited by taxes and regulations. However, if the fiscal needs of the country must be high due to a high public debt and a slow economic growth, then it is better to secure them with the help of a lower corporate income tax and, accordingly, higher indirect taxes.

The reduction of costs of tax collection and the increase in the efficiency of tax enforcement should be found in the greatest transparency of tax law and simplified tax procedures. However, transparency and simplified procedures of tax collection cannot be a goal *per se* as that would lead to the deterioration of the tax system and reduction of its useful functions in steering the modernization of production and consumption spheres towards social and economic cohesion. Therefore, it seems unjustified to push a flat rate tax from natural persons in a country with high budgetary needs as it seriously hinders the implementation of the rule of justice in taxation and may contribute to the reinforcement of deep social inequalities. A better solution is to skillfully match tax thresholds with the system of tax reliefs and exemptions allowing the achievement of structural effects which improve social and economic cohesion. The temptation to abuse them results not as much from the existence of tax progression, tax reliefs and exemptions but from the lack of successful institutional protections of the law state that would abandon chasing politicians due to rent seeking and tax system officials due to corruptive situations. This transparency, unambiguity and precision of law and professionalism of tax service, which refers also to the understanding of public welfare supported by adequate remuneration and sanctions for infringing the tax law, are above all the determinants of the tax collection efficiency.

Pathologies cannot be a sufficient reason to abolish tax reliefs. First of all, underlying reasons for their existence should be determined as well as effective ways to eliminate them. There is also the need to answer questions about economic and social costs of preventing the temptation to abuse the tax law. A change of this law which leads to an increase of its total costs resulting from a decreasing

tendency to be entrepreneurial, an investment activity, creativity, a loss of workplaces, a demand on national production, worsening of competition, a tendency to cooperate, even if it meant effects that are balanced by the efficiency of taxation and a decrease in the transaction costs, there is no justification in the light of economic rationalization criteria, not mentioning social legitimacy. It is about an integrated development and not a static balance, political interests, or state or EU bureaucracy.

The integrated development requires stimuli which are very often sophisticated, adjusted to the existing work culture, entrepreneurship, lawfulness or its shortage which constitutes the legacy of the past.

The solution of a demographic crisis requires answering the following question: what is the point of a quasi-flat-rate personal income tax deprived of tax reliefs and tax exemptions? Similarly, a low tendency to invest and cooperate poses a question about the need of binding progressive tax with tax reliefs and exemptions due to investments in hiring the unemployed, constructing the first apartment, investing in human capital. The duty to document tax reliefs is after all a tool to demand transparency of business activity, which fosters the reduction of the grey zone and revealing income, thus tax collection effectiveness.

A modern and effective fiscal policy should aim at lowering taxes and simplifying the tax system in order to improve working conditions, especially conditions of conducting a business activity. However, it cannot be a policy stemming from theories *a priori* which ignore spatiotemporal coincidences. Improving the image of a country among potential investors cannot weaken national entrepreneurship and, therefore, it cannot be based on abolishing all tax reliefs. As a possible tool of increasing competitiveness of the economy, lowering and simplifying taxes should be applied to income tax and in such a way to compete effectively for the inflow of foreign capital invested not just in any business activity, but in the fields fostering structural changes that increase productivity of productive factors and social cohesion.

An unsolved problem in the Polish tax system is taxation of agriculture. Seeking an optimal taxation system of agriculture should be closely related with the dissolution of the Agricultural Social Insurance Fund (in Polish: KRUS) matter – a specific model of social insurance for farmers. A considerable part of the population and economic entities connected with agriculture is subjected neither to a personal income tax, nor to a corporate income tax. The PIT is in this case not a common tax.

While evaluating the tax system, it is impossible to limit yourself to the tax law. It is necessary to include also the matters of fiscal apparatus' efficiency and the need to patch the holes in tax system regarding indirect taxes, as well as the CIT with a special focus on the matters of income transfers to tax havens. On the success in the reduction of grey zone and avoidance of tax payments depends potential lowering of tax burdens and bringing back the balance in public finance.

## TABULAR ANNEX

Table 1. Tax rates on personal income in the EU in 2007; 2011 and 2016

Country	2007			2011			2016		
	Initial Rate	Maximum Rate	Number of thresholds	Initial Rate	Maximum Rate	Number of thresholds	Initial Rate	Maximum Rate	Number of thresholds
Austria	0,0	50,0	4	0,0	50,0	4	0	55	7
Belgium	25,0	50,0	5	25,0	50,0	5	25	50	5
Bulgaria	12,0	32,0	4	10,0	10,0	1	10	10	1
Cyprus	20,0	30,0	3	0,0	30,0	4	0	35	5
Czech Republic	12,0	32,0	4	15,0	15,0	1	15	15	1
Denmark*	5,48	26,48	3	3,75*	42,0*	5*	9,08*	15*	2*
Estonia	22,0	22,0	1	22,0	22,0	1	20	20	1
Finland	0,0	32,5	6	0,0	30,0	5	0	31,75	6
France	0,0	48,09	7	0,0	40,0	5	0	45	5
Greece	15,0	40,0	3	0,0	45,0	9	22	45	4
Spain	9,06	29,16	5	24,0	45,0	6	9,5	22,5	5
The Netherlands	2,45	52,0	4	1,85	52,0	4	8,4	52	4
Ireland	20,0	42,0	2	20,0	41,0	2	20	40	2
Lithuania	15,0	33,0	2	15,0	15,0	1	15	15	1
Luxembourg	0,0	38,0	10	0,0	39,0	17	0	40	19
Latvia	25,0	25,0	1	25,0	25,0	1	23	23	1
Malta	0,0	35,0	6	0,0	35,0	4	0	35	5
Germany	0,0	42,0	32	0,0	45,0	b.d.	5,5	45	5
Poland	19,0	40,0	3	18,0	32,0	2**	18	32	2
Portugal	10,5	42,0	7	11,08	45,88	8	14,5	48	5
Romania	16,0	16,0	1	16,0	16,0	1	16	16	1
Slovakia	19,0	19,0	1	19,0	19,0	1	19	25	2
Slovenia	10,0	40,0	3	16,0	41,0	3	16	50	4
Sweden*	0,0	25,0	3	0,0*	25,0*	3	0*	25*	3
Hungary	18,0	36,0	2	16,0	16,0	1	15	15	1
Great Britain	10,0	40,0	3	20,0	50,0	3	20	45	3
Italy	23,0	43,0	4	23,0	43,0	5	23	43	5

b.d. – no data

\* In Denmark and Sweden except a central tax there are also municipal taxes paid to the local authorities, therefore, the data presented in the table for these countries is not comparable with others. After including the municipal tax, the maximum tax rate in Denmark is 51.95% and 57% in Sweden.

\*\* In Poland the tax-free threshold can be treated as an additional tax bracket, then the initial rate in 2011 and 2017 would be 0.0% and the number of tax brackets – 3.

Source: [Owsiak, 2007, p. 1257], [www.taxrates.com](http://www.taxrates.com) [accessed 27.07.2011], [www.capitaltaxconsultingtax.com](http://www.capitaltaxconsultingtax.com) [accessed 27.07.2011], [http://stats.oecd.org/index.aspx?DataSetCode=TABLE\\_I1#](http://stats.oecd.org/index.aspx?DataSetCode=TABLE_I1#) (accessed 16.05.2017), <http://taxsummaries.pwc.com/> (accessed 16.05.2017).

**Table 2. Corporate income tax rates in the EU-27 countries in the years 1995–2017**

Country	1995	2002	2008	2009	2010	2011	2017
Austria	34,0	34,0	25,0	25,0	25,0	25,0	25,0
Belgium	40,2	40,2	34,0	34,0	34,0	34,0	34,0
Bulgaria	40,0	23,5	10,0	10,0	10,0	10,0	10,0
Cyprus	25,0	28,0	10,0	10,0	10,0	10,0	12,5
Czech Republic	41,0	31,0	21,0	20,0	19,0	19,0	19,0
Denmark	34,0	30,0	25,0	25,0	25,0	25,0	22,0
Estonia	26,0	26,0	21,0	21,0	21,0	21,0	20,0
Finland	25,0	29,0	26,0	26,0	26,0	26,0	20,0
France	36,7	35,4	34,4	34,4	34,4	34,4	33,3
Greece	40,0	35,0	25,0	25,0	24,0	20,0	29,0
Spain	35,0	35,0	30,0	30,0	30,0	30,0	25,0
The Netherlands	35,0	34,5	25,5	25,5	25,5	20,0	25,0
Ireland	40,0	16,0	12,5	12,5	12,5	12,5	12,5
Lithuania	29,0	15,0	15,0	20,0	15,0	15,0	15,0
Luxembourg	40,9	30,4	29,6	28,6	28,6	28,8	29,22
Latvia	25,0	22,0	15,0	15,0	15,0	15,0	15,0
Malta	35,0	35,0	35,0	35,0	35,0	35,0	35,0
Germany	56,8	38,3	29,8	29,8	29,8	29,8	29,72
Poland	40,0	28,0	19,0	19,0	19,0	19,0	19,0
Portugal	39,6	33,0	26,5	26,5	29,0	29,0	21,0
Romania	38,0	25,0	16,0	16,0	16,0	16,0	16,0
Slovakia	40,0	25,0	19,0	19,0	19,0	19,0	21,0
Slovenia	25,0	25,0	22,0	21,0	20,0	20,0	17,0
Sweden	28,0	28,0	28,0	26,3	26,3	26,3	22,0
Hungary	19,6	19,6	21,3	21,3	20,6	20,6	9,0
Great Britain	33,0	30,0	30,0	28,0	28,0	27,0	19,0
Italy	52,2	40,3	31,4	31,4	31,4	31,4	27,9

Source: Eurostat, 2011, *Taxation trends In the European Union*, Luxemburg, p. 130; <http://www.tradingeconomics.com/country-list/corporate-tax-rate?continent=europe> (accessed on 16 May, 2017)

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### *Summary*

The article presents fiscal reforms in Poland since 1990. The author describes the reforms of direct and indirect taxes, analyzes their inconsistencies and advocates changes that are aligned with socio-economic cohesion policy. In order to eliminate pathologies in the tax system, it recommends the elimination of social advantages in the tax system, consideration of pro-family preferences, the linkage of progression and tax relief to stimulate professional activity and propensity to invest, simplifying tax collection procedures, streamlining the tax system and sealing taxes.

*Keywords:* Polish economy, fiscal policy, budget policy, economic transformation

## **Lekcje z doświadczeń reform fiskalnych w Polsce**

### *Streszczenie*

W artykule zaprezentowano przebieg reform fiskalnych w Polsce od 1990 roku. Autor opisuje reformy dotyczące podatków bezpośrednich i pośrednich, wskazuje na ich niespójności i postuluje zmiany dostosowane do polityki spójności społeczno-ekonomicznej. W celu likwidacji patologii w systemie podatkowym zaleca eliminację znamion przywilejów socjalnych w systemie podatkowym, respektowanie wymogów polityki prorodzinnej, powiązanie progresji i ulg podatkowych dla pobudzenia aktywności zawodowej i skłonności do inwestowania, uproszczenie procedur poboru podatków, usprawnienia aparatu skarbowego i uszczelnienie poboru podatków.

*Słowa kluczowe:* gospodarka Polski, polityka fiskalna, polityka budżetowa, transformacja gospodarki

JEL: H20, H30