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PRAWNE I EKONOMICZNE ASPEKTY OPODATKOWANIA NIERUCHOMOŚCI W UNII EUROPEJSKIEJ

LEGAL AND ECONOMIC ASPECTS OF PROPERTY TAXATION IN THE EUROPEAN UNION

Tomasz Wołowiec

dr hab, Faculty of Administration and Social Sciences, University of Economics and Innovation
in Lublin, Poland

ORCID: <https://orcid.org/0000-0002-7688-4231>

* *Corresponding author:* e-mail: wolowiectomek@gmail.com

Streszczenie

W systemach opodatkowania nieruchomości występujących w krajach Europy Zachodniej, nie istnieją ujednoczone rozwiązania specyficzne dla każdego państwa. W konkretnych systemach krajowych, składowe konstrukcji podatku (szczególnie podstawa opodatkowania, stawki, zwolnienia oraz ulgi podatkowe) były formowane przez uwarunkowania społeczno-historyczne, co spowodowało, że w niektórych państwach występują rozwiązania bardzo charakterystyczne, nie istniejące w innych systemach podatkowych. Wskazać można jednak pewne wspólne cechy, specyficzne dla nowoczesnych systemów opodatkowania nieruchomości. Wspólnym elementem, który łączy nowoczesne systemy podatkowe jest to, że podstawę (z nielicznymi wyjątkami) opodatkowania nieruchomości stanowi jej wartość (różnie definiowana). Celem niniejszego opracowania jest charakterystyka uwarunkowań teoretycznych i empirycznych systemów opodatkowania nieruchomości w Unii Europejskiej ze szczególnym uwzględnieniem funkcji fiskalnej podatku od nieruchomości.

Słowa kluczowe: podatek od nieruchomości, opodatkowanie ad valorem, proces harmonizacji

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Abstract

A property tax (or millage tax) is a levy on real estate that the owner is required to pay. The tax is levied by the governing authority of the jurisdiction in which the real estate property is located; it may be paid to a national government, a federated state, a county or geographical region, or a municipality. Multiple jurisdictions may tax the same property. This is in contrast to a rent and mortgage tax, which is based on a percentage of the rent or mortgage value. There are four broad types of property: land, improvements to land (immovable man-made objects, such as buildings), personal property (movable man-made objects), and intangible property. Real property (also called real estate or realty) means the combination of land and improvements. Under a property tax system, the government requires and/or performs an appraisal of the monetary value of each property, and tax is assessed in proportion to that value. Forms of property tax used vary among countries and jurisdictions. Real property is often taxed based on its classification. Classification is the grouping of properties based on similar use. Real estate properties in different classes are taxed at different rates. Examples of different classes of property are residential, commercial, industrial and vacant real property. In Israel, for example, property tax rates are double for vacant apartments versus occupied apartments.

Keywords: property taxation, ad valorem tax, harmonization process

Introduction

The notion of property constitutes one of the most ambiguous categories, differently defined and interpreted depending on a given field of science. Analyzing legal provisions of the EU countries which regulate the issues of tax accounting and tax law, we may determine the general properties of elements of property. These are:

- Ability to generate future economic benefits;
- Reference to transactions or other events realized in the past;
- Remaining under control of the managing unit, which allows to enter them into the accounting system of a given entity.

Taking into account legal provisions of accounting, there are two categories of property (asset) elements: fixed assets and current assets. We can also classify property (assets) using other criteria (graph 1).

The difference between current assets and fixed assets is important for the possible establishment of the tax collection point for the taxes whose taxation base is related to the subject resource. It seems that potential application of property-related tribute requires for the object of taxation to be easily identifiable, thus demonstrating certain regularity of its taxation. The review of the existing models of property tax

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shows that as far as tributes imposing burden on real estate are concerned, there is the primacy of building or land real estate over other types of property. It seems essential that the material property and intangible and legal values, as essential production factors of an enterprise, should constitute the main elements of the fixed assets structure.

Table 1. Types of property (assets) elements according to accounting regulations

Period of use criterion	fixed assets current assets
Liquidity criterion	non-liquid liquid
Criteria of nature and function	tangible intangible financial material

Source: own work

To describe the real estate, the basic element of property, we should not only use the presentation of various ways of defining the notion of real estate by the lawmakers, but also take into account their features (Table 2).

Table 2. Features of real estate

Physical	Economic	Legal
Immovability Durability Variety	Rarity Location Interrelationship Capital consumption Ability to satisfy particular needs Ability to generate economic benefits	Legal definition Legal structure of Land and Mortgage Register Records – state collection of real estates Special requirements for trading real estate Legal ratification of professions related to real estate Legal norms related to real estate economy of the state and self-government

Source: own work.

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Analyzing legal aspects concerning real estate in the EU countries we may differentiate four elements which need to be taken into account when considering the forms and structures of property taxation. First of all, it is the immovability of real estate in time and space. The value of the real estate largely depends on the attractiveness of its location and the type of its use. Secondly, variety, manifested in the fact that there are no two identical real estates. The factors that differentiate real estate are especially its area, shape, type of development, allocation in the spatial development plan, soil conditions, water conditions, utilities, neighborhood. That explains why there might be considerable differences between similar, but hardly comparable real estates. Thirdly – capital and time consumption with reference to industrial developed real estate. Limited financial resources allocated for purchasing the real estate depend on the investor's own resources and availability of external (foreign) finance. The indicated difficulties related to such investment are compensated by the long-term nature of the real estate enjoyed by the owner. A general rule states also that large capital consumption of the real estate usually results in its increasing value. Fourthly, the ability to satisfy particular needs, which means that entrepreneurs are able to generate economic benefits. Each type of real estate has certain functions attached to it. In case of residential real estate – this may be economic, education, cultural, religious activity that can be run there. With reference to undeveloped real estate – conducting trading activities (the marketplace), services (parking lots), agricultural activity (arable land) and forest activity (forest land). Another consequence of possessing a real estate and the right to use it is the ability to generate measurable benefits. The type of benefit depends on the way of using the real estate.

Property as a subject of taxation

The concept of property has never been defined in the Polish law system. In its wide sense, it is understood as total assets and liabilities belonging to a particular entity. Such definition of property is opposed to its narrow term denoting the estate which entails only assets. In the latter definition, debts do not belong to property, but lower its economic value. Also in economics the property is understood exclusively as a sum of assets – property resources controlled by an individual and possessing

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reliably defined value. These assets are divided into fixed assets, composed of elements that are permanently engaged in a given unit, and current assets, composed of elements which constantly traded. In this understanding of property, liabilities are treated as means of its origin, and when we juxtapose them with assets, we will obtain a balance sheet (Etel L, Liszewski G., 2002, p. 5). In the legal sense, in the doctrine of civil law property has rather narrow meaning. This can be seen in the interpretation of the Civil Code provisions which use the concept of property – for example Article 863 (Grzybowski S., 2005, p. 561), 871 (Kidyba 2010), 875 concerning joint property of partners. The provision of Article 863 is absolutely binding and regulates the legal and material effects of gathering property on the basis of articles of association of a partnership. The regulation determining the regime of joint property of partners is applicable when such property is collected.

The establishment of a partnership as an obligation relationship is self-contained and does not depend on whether the joint property of partners was generated. The collection of such property may, but does not have to, be the consequence of establishing a partnership. The joint property is a derivative of the relationship of partnership, though not all articles of association have to evoke such legal and material effects. We may assume the existence of a civil partnership within which partners will oblige to act in a particular way, but none of them will be obliged to make any material contribution. Also the partnership activity will not generate any joint proprietary rights. Neither the establishment of the partnership nor its existence then is dependant, by the regulations, on the existence of joint property of partners. The provisions of Article 871 of the Civil Code determine the principles of settlement with a partner who leaves the partnership. They are applicable mostly when the partner leaves the partnership and withdraws their share observing the period of notice (Article 869 § 1 of the Civil Code) or not observing it (Article 869 § 2 of the Civil Code). Moreover, the principles of settlement provided in them are applicable in case of withdrawing one's share by a personal creditor of the partner on the basis of Article 870 of the Civil Code. It seems that unless the parties agree otherwise, also in case of articles of association of a partnership, on the basis of which a partner withdraws his share, the settlement with him should be conducted following the provi-

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sions of Article 871 of the Civil Code. In case of the partner's death, on the other hand, these provisions are used for settlement with their inheritors if they do not join the partnership in place of the late partner.

The provisions of the Civil Code do not regulate the principles of liquidating the partnership. However, activities undertaken after its dissolution, aimed at actually settling the partnership with its creditors and in relationship between partners, may, in some simplification, be treated as such. In commercial partnerships the appearance of the cause for liquidation in fact leads to opening the liquidation process, while the dissolution of a partnership becomes effective when the company is crossed out of the register following its liquidation. In case of civil partnerships, the order of events is different. The event that constitutes the cause for dissolving the partnership simultaneously causes its dissolution. On the other hand, the "liquidation" activities are conducted only after the termination (dissolution) of a partnership. The dissolution of a partnership is a legal event which needs to be analyzed in to major aspects. Most of all, the obligation relationship of a partnership expires. This means that all the rights and obligations of the partners as parties to the articles of association of this partnership also expire. Partners lose their status of partners as subjects of a legal relationship in the partnership. The second sphere in which partnership dissolution causes vital legal effects is the joint ownership referring to the joint property of partners. The joint ownership so far, at the moment of dissolving the partnership is by virtue of law transformed into ownership in parts. The provision of Article 875 § 1 of the Civil Code obliges us to apply to it the regulations concerning co-ownership in fractions, observing the provisions of Article 875 § 2 and 3 of the Civil Code. The dissolution of a partnership analyzed in these two aspects leads to a conclusion that the joint ownership in fractions, existing between former partners is self-contained. It exists in spite of the termination of a personal relationship (partnership relationship) between partners.

It is emphasized, though, that sometimes the lawmakers seem to be using the analyzed notion in its broad meaning – assuming that the inheritance is a kind of volume of estate, it should be admitted – following, for example, Article 922 of the Civil Code, that it consists of not only assets but also of many obligations the de-

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ceased person had (liabilities). Similarly, the wide understanding of “property” could also be seen in the interpretation of the provisions of Family and Guardianship Code concerning the management of a joint property of spouses. It is assumed though, that as a rule property is understood narrowly in Polish law.

The Civil Code regulates in Article 44 the term similar to “property”, that is “possessions”. The term is a collective name for all property rights (absolute and relative), both civil and other. The possessions thus are a subordinate (general) notion to particular property rights. Possessions cover only property rights (ownership and other property rights), that is the assets attributed to a particular entity. Therefore we should exclude from this term debts, that is liabilities which may only constitute a burden on possessions. The use of “ownership and other property rights” indicates the civil law rights. The ownership right is the broadest and the fullest civil right to things, other property rights are its derivatives. Thus the rights which are not of civil law nature, or the civil law rights of non-property nature, are located outside the scope of interest for Article 44 of the Civil Code, as they do not create possessions (Kidyba, 2010). Property should be differentiated from possessions, though there are numerous inconsistencies in using these terms in the Civil Code. There is a broader and a narrower understanding of the concept of property (Pyziak-Szafnicka, 2009). In its broader meaning, property denotes all property rights and obligations of a legal subject. In its narrow definition, property is associated only with assets, that is property rights possessed by the subject; such identification allows us to use the concepts of property and possessions interchangeably. Property are the elements of possessions which can be singled out as a collection of assets (or liabilities) being the object of trade, inheriting, security for liabilities, basis of responsibility for obligations, etc.

Property denotes property rights of a subject in a particular legal activity or another legal event. This can be a joint property (for example in case of spouses or civil partnership) and separate property (of spouses, in a commercial company and its partners), personal property (for example used to perform a job or personal belongings), property objects (for example in the property of spouses), property management (in co-ownership), responsibility for obligations related to property, using the property (*inter vivos* and *mortis causa*). The elements of property are not objects

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whose rights they concern, but these rights due to the objects (for example real estate, moveable things). Similar can be said of the belongings.

Property taxes (on specified items of property), comprise all taxes related to the ownership rights. From the perspective of the relationship between the tax burden and the taxpayer carrying it, we may differentiate direct and indirect taxes. A direct tax is when there is a precisely defined relationship between tax burden (type of tax, its amount, payment mode) and the taxpayer bearing it directly. Thus we have a relationship between the payment of the tax and direct carrying its burden by the taxpayer. So we have a convergence between the formal and material burden. Direct taxes burden the taxpayer in a way that is closely related to their income or property situation. Direct taxes comprise income taxes and property taxes. Direct taxes, especially property taxes are considered to be non-transferrable (Grądański F., 2006, p. 105), which is not the case, therefore the criteria of the unity of a taxpayer and tax burden is not coherent. We should assume therefore – taking into account the criterion of a relationship of the subject with attributable features – that direct taxes are those which are precisely related to permanent and non-transferrable features of a taxpayer or measures of economic activity ascribed to him through the ownership rights (income and property) (Szczydzowski G., 2007, p. 24-26).

Property taxation has both economic and legal aspects. In the economic aspect, a property tax is the one whose source is the taxpayer's property. If property taxes are paid from obtained income, then they are nominal. If the source from which the tax is paid is the property, that we have real property taxes. Property taxes may burden both the property of individuals and business entities (subject of taxation criterion). We may also single out property taxes which may burden: possession of property, purchase or sale of property and increased value of property. Moreover, the taxation may cover the whole property or its particular elements. A property tax in its normative aspect is a tax which, through the elements of a legal construction (subject and base of taxation) is tied to property (Gomułowicz A., Małecki J., 2004, p. 140-141).

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Reasons for property taxation

Property taxes constitute quite a varied group and are classified in many different ways, just as the property itself is subject to numerous classifications. We may assume that property taxes (on specified items of property) place burden on possessing the property and on its growth. The advantages of property taxes are:

- 1) they are resistant to tax frauds, as it is difficult to hide the taxation base (estate, real estate or a farm, as well as the fact of, for example, approving the local spatial development plan);
- 2) since they do not take into account the individual situation of a taxpayer – they do not allow any reliefs aimed at lowering tax burden if due to some special situation, the taxpayer's tax capacity decreases;
- 3) a relatively simple structure of property taxes (on specific items of property) by eliminating the individual income capacity (lack of personalization) generates low costs of collection;
- 4) when determining its value, it is easier to resist political pressure, since property tax (on specified items of property) is not related to the taxpayer, so it does not arouse such interest of politicians;
- 5) property tax allows to cover with taxation those external features of wealth which cannot be taxed with income tax, as they do not bring income, or are not an object of interest for tax organs (collections, yachts, etc.);
- 6) property tax, by taxation of gathered property does not hinder – unlike income taxes – investment (economic) activity.

Disadvantages:

- 1) the scope of property tax (on specified items of property) is significantly limited, it concerns only to observable objects of taxation;
- 2) by taxing the possession of property and its growth, we run the risk of excessive taxation of property elements (the rate that destroys property substance) regardless of the income flows generated by the property or an individual income (family) situation of a taxpayer;
- 3) the definition of property is not legally precise, but we may differentiate immovable property (forests, land, houses, etc), which is easy to inventory and tax, and

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movable property (receivables, securities, works of art, intellectual property rights, etc.), with reference to which it is very difficult and costly and sometimes impossible to determine the taxation base and proper tax as it is easy to dodge taxation and hide the taxation base.

Taking into account the specificity of property taxes and advantages and disadvantages of these forms of taxation, it is difficult to identify common features of property tax structures in OECD countries (Gajl N., 1996, p. 43-44; Etel L., 2003, p. 7-24):

- 1) in market economy various tax instruments are activated to affect decisions of individuals and entities concerning the use of the property they possess. This means that various tax forms and structures are used, including those reaching incomes obtained from capital, securities, shares, bonds, etc.;
- 2) practically there are various variants of taxing incomes from property possible – by means of separate property tax (on specific items of property) or within income (revenue) tax;
- 3) taxation may be imposed on the whole property or only on income obtained from it (taxation of the income flow or the state of possession itself);
- 4) tax on property of public enterprises is a special form of property tax, as property taxation here constitutes a specific payment: a dividend or participation in profits related to using it;
- 5) taxation of estate and donations requires separate models and taxation structures due to their specificity compared with other forms of property.

Justifying property taxation we may refer to the principle of equivalence, the principle of payment capacity and principles and political and social rules of population income redistribution. The principle of equivalence is based on an assumption that there is a relationship between the amount of tax burden and the value of public goods and services provided for the taxpayer. Property tax is a good example of applying this principle. The state takes on the responsibility of protecting ownership rights, incurs expenses related to developing and maintaining economic infrastructure, tries to preserve social peace favoring full and free use of one's ownership. Local authorities take care of the roads, water and sewage systems, green areas, pro-

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vide light in streets and keep the town tidy. Such activities not only allow to fully use the possessed property but also increase its market value. Due to the fact that most of the above-listed expenses are incurred by local authorities, property taxes mostly credit local budgets.

On the other hand, the relationship between the amount of property taxes and payment capacity is mostly affected by the measures of wealth and related capacity to carry tax burden accepted by the society. Such a criterion can be the current income of a taxpayer, the level of their consumption expenses or gathered property, as thanks to the possessed property they may obtain higher current income. In contemporary tax structures it is usually income that is used as a measure of payment capacity. Both the structure and the amount of property tax rates depend on whether these taxes are treated as independent taxes, or as supplements to other taxes. Property taxes are usually treated as a supplement or correction of income tax in order to better reflect the taxpayer's payment capacity or to allow redistribution of incomes determined by social reasons.

The social and political dilemmas related to the structure of property tax are pointed out by A. Komar, who writes: *"We should take into account social and political pressure on property tax authors, aiming at progressing burdening of the property. (...) On the whole, poorer societies demand high burden on property, as they assume the property was not always legally generated or its was obtained at the cost of impoverishing others"*(Komar A., 1996, p. 211). Experience shows that independent property taxes are usually progressive, while those that supplement income tax have proportional rates.

The economic effects of property taxation depend on the level of tax rates and on the object of taxation. Taxation of the property of individuals (for example cadastre tax, tax on estates and donations) performs mostly the redistribution function. Taxation of incomes from capital (dividends, interest on bonds, interest on bank deposits), apart from the redistributive function, also affects the willingness of capital owners to invest and save (Krajewska A., 2004, p. 112-113).

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Analysis of latest research where the solution of the problem was initiated

“Immovable property” generally encompasses both “real property” and “real estate,” terms that have different technical meaning but that often are used synonymously. Real property refers to the rights, interests and benefits connected with real estate, which is the physical piece of land and any structures on that land. Land, in turn, can have the same meaning as real estate. Much of the literature on national property tax systems speaks generally of “property taxes.” Particularly when considering property tax revenues, it can be important to distinguish among the various kinds of taxes on property. The International Monetary Fund (IMF) and the Organisation for Economic Co-operation and Development (OECD) have developed largely complementary schemes for classifying taxes, which they use in presenting revenue statistics. Taxes on property include: (1) recurrent (annual) taxes on real (*immovable*) property, (2) recurrent taxes on net wealth, (3) taxes on estates, inheritances, and gifts, (4) taxes on financial and capital transactions (including real property transfers), (5) other non-recurrent taxes, and (6) other recurrent taxes on property (including taxes on movable property such as vehicles and machinery and equipment). Many countries do not have a uniform national property tax system. Several have separate land and building taxes. Several essentially let local governments tailor their systems to local conditions (Property Tax Regimes in Europe, 2013, p. 1).

Immovable property taxes are suited to local governments because it is clear which government is entitled to the tax revenue from immovable property, and such property cannot flee the tax collector. Local government services are often provided to properties or their owners and occupants. The tax captures for local government some of the increases in the value of land that are partially created by public expenditures. A dedicated source of revenue promotes local autonomy. The visibility of property taxes focuses attention on the overall quality of governance and promotes accountability. Information on land, buildings, and market prices collected in the course of administering taxes on immovable property becomes part of a valuable pool of information that has numerous governmental and private uses. If up-to-date and publicly available, this information can facilitate orderly real property markets. Despite their advantages - or perhaps because of some of them - property taxes often

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are underutilized sources of revenue. A common, but disputed complaint about the property tax is that it is inherently regressive, although poorly administered property taxes tend to be regressive. People schooled in income and consumption tax administration can fail to appreciate the relative advantages of a wealth tax. They focus on high administrative costs and low yields, overlooking the comparative high compliance costs associated with income and consumption taxes. Valuers schooled in traditional single-property valuation methods disdain assessors and the mass valuation methods used in property taxation. The unpopularity of property taxes, coupled with opposition from taxpayers who benefit from entrenched inequities encourages “legislative neglect” (Slack E., 2011, p. 2-3).

The greatest discrepancies and irregularities between the science and practice of economics concerns the legal interpretation of the property tax term. It is generally accepted that these performances are directly (or less indirectly) related to the possessed property – so they may burden the fact of possessing it and the fact of increasing it with exceptional circumstances. Sometimes revenue taxes also constitute a burden on a single (exceptional) property growth. However, to be able to differentiate them from property taxes, we need to supplement the definition of the latter with a statement that their structural tie with property is manifested – with only the object of taxation – in the structure of the taxation base: as we can easily prove, when defining the taxation base of income taxes, what comes to the foreground is the value of the actual benefit gained by the taxpayer – it does not necessarily have to coincide with the market value of the objects which account for property gain, and only in a few situations tax authorities can question the value declared by the taxpayer, adopting market-related values. The opposite is true in property taxes: as a rule the taxation base is the market value of an object being property gain, the so-called pure value – after deducting some costs and debts related to that object – and this is the value the taxpayer can declare, even if the subjectively indicated object has a much higher value for them than market value.

Property taxes may be classified in many different ways. One of the criteria may be the frequency of imposing them. In this case we may talk of single (one-off) tributes (extraordinary), usually imposed in times of temporary deficit in the state

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budget, valid for a limited period of time, and of regular tribute – imposed for a specific time. Property taxes may also be divided into direct and indirect, with several criteria of such division. We may also apply the criteria of collection technique to property tribute. Direct taxes in this approach will be those paid by the entities who have direct tax obligation towards territorial self-government unit or Treasury. The economic criterion, referring to the sources of tax coverage, allows us to differentiate nominal and real property tributes. The former are characterized by the fact that it is not necessary to use any part of the property substance to pay them – a given taxpayer may pay his tax obligation with the money coming from current income or savings. On the other hand, property taxes become real when the amount of the required tribute exceeds payment capacities of the obliged entity – in order to pay their whole tax obligation, the taxpayer is forced to cash some of their property, for example – by selling off part of the land. Analyzing property tributes in their legal sense, it must be stated that these are performances related to property through the elements of tax structure, that is taxation base and object. The performances understood in this way may further be divided along another criterion: the way of presenting the object of taxation. It allows us to single out taxes which are imposed on possession of property, sale of property, purchase of property, growth in property value. Property taxes may also be classified according to their function which they play in the tax system.

Property taxes have various legal classifications. Analyzing legislature of the EU and OECD countries, we may differentiate four classification groups of property taxes:

- 1) **Taxes on possessing property (managing property).** Depending on the valid tax system these may be taxes on the total value of property belonging to a given economic entity (moveable and immovable property, cash, bank deposits, etc.), or – more frequently – on its selected elements. In the Polish tax system, the taxes belonging to this group are: tax on real estate, land tax, forest tax and tax on means of transport.
- 2) **Taxes on the increment (taking over) of property.** The taxation object here is the obtaining of an object or property rights by means of purchase, donation or inheritance. Here we classify tax on inheritance and donations.

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- 3) **Taxes on the growth of value of the possessed property.** They are used when this growth can be attributed to reasons not associated with the owner. An example here can be a betterment levy (fee) and re-zoning fee, paid by real estate owners due to the fact that their properties gained in value as a result of providing services and utilities, geodetic division of land, changes to local spatial development plan, etc.
- 4) **Taxes on transformation of property substance.** These are taxes paid in case of the sale or exchange of things or property rights into other things or property rights. In Poland, they are present as tax on civil law activity (Polish abbreviation - PCC).

In principle, a tax on land value only taxes location rents (returns on a particular location regardless of how distributed, such a tax should be more progressive than a tax on land and improvements. Site value taxation thus scores well in terms of both equity and efficiency. Indeed, taxes on land are generally regarded as one of the least distortionary taxes, although more general taxes on property do, of course, distort decisions about improvements (investment) to property. The valuation of land alone is difficult, however, because most urban real estate sales combine the value of land and improvements. The value of improvements thus needs to be subtracted to derive an assessed value for the land. While some consider such taxation unacceptably arbitrary, others argue that valuation of land alone is probably easier than valuation of property and can often be estimated directly from sales and demolition records (Bahl R., 2009). In many such countries, land and improvements are in practice assessed separately in any case, with land value being estimated on the basis of a land value map and building value in accordance with construction cost tables. Another problem with taxing land only, however, is that, since the tax base is considerably smaller than the value of land and improvements combined, a higher and more distortionary rate is needed to generate comparable revenues (Richard M.B., Slack E., 2005, p. 34-35).

The legal analysis of the structure and features of property taxes allows us to put forward the following classification criteria:

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1. The legal and economic process of generating and using income (the object criterion).
2. Specification of the object of taxation (economic criterion).
3. The relationship between normatively determined elements of the taxation technique (source, object, subject of tax) and the actual state (criteria of allocation of financial resources coming from taxes).
4. The method of quantifying the taxation base.

Analyzing the assumed reasons for choosing a particular form of taxation, we may assume that the first two criteria are similar. In both the basic problem consists in selecting the object of taxation. In the object criterion, taxes may be imposed on income, property or turnover and expenses. In case of economic and legal criteria, clear specification of the taxation object becomes important. We distinguish income taxes (the object of taxation is property as it is generated), capital taxes (here the taxation object is the existing property) and taxes on turnover and expenses (the expended property is the object of taxation here) (Felis P., 2012, p. 72-73). The makers of tax laws have definite possibilities related to the choice of the tax collection points, namely:

- 1) Taxation of the current activity of taxpayers in form of flows related to: collection of taxes in a situation of generating and then consuming income and collecting taxes in a situation of accumulating capital (saving or investing);
- 2) Taxation of the resource, that is the property accumulated in the past.

The choice of the structure of the tax system should depend on many factors related to the performance of the basic functions of taxes. Here we can use the following criteria:

- Fiscal efficiency of taxes, collection costs, resistance to tax avoidance and frauds, speed and ease of obtaining income from taxes, ability to self-regulate;
- Influence of taxes on inclination to save and invest, influence on the choice of socially desirable production techniques, materials, sources of energy, influence on the choice of socially desirable structure of consumption – in case of the motivating function of taxation.

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We should remember that there is no unanimous agreement among taxation theoreticians as to clear classification of particular taxes into groups of property taxes. This especially concerns arable land and forest tax, which may be classified as revenue taxes, as they refer to external features indicating the size of income obtained by the taxpayer (in case of the arable land tax, they refer to the amount, quality and type of land). Analyzing the functions and the construction of the arable land and forest tax, we may also claim that these two taxes are not typical revenue taxes, but revenue-property taxes. An essential problem in the classification of the arable land and forest tax is the fact that the law-makers excluded revenues from agricultural and forest activity from the regulations governing income taxes, as understood by the provisions of the acts on agriculture tax (Act of 15th November 1984 on Agriculture Tax, Journal of Laws 1984, no 52 item 268, as amended) and forest tax (Act of 30th October 2002 on Forest Tax, Journal of Laws 2002, no 200 item 1682, as amended). Performing a complex analysis of the forest and agriculture tax structure, we may state that the agriculture and forest taxes constitute a burden on property, as the tax obligation is created solely by the fact of possessing or owning arable land, even if there is no agricultural or forest activity conducted on this land. Also with reference to the tax on real estate, regulated in the Polish act on local taxes and fees (The Act of 12th January 1991 on Local Taxes and Fees, Journal of Laws 1991, no 9 item 31, as amended), we may notice a certain legal relationship with the category of property-revenue taxes (Mastalski R., 2000, p. 492). Analyzing the structure of real estate tax we may notice that the level of tax burden depends on the way in which the real estate is used. This concept is in line with a principle stating that using real estate in economic activity may allow us to gain greater property benefits, therefore it is justifiable to tax it higher than in case of possessing other real estate objects, such as a residential house.

The discussion includes the reasons why land and property taxes (LPT) are often an important source of local revenue, what the options are for designing such taxes and what needs to be considered in their implementation. The case is put forward that land and property constitute an important base for mobilizing revenue to meet local needs. Land is immovable. Buildings and other immovable improvements

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on the land are difficult to hide. Those who benefit most from public investments will likely pay a larger share of the tax. Taxes on land and improvements can capture part of the increased land values that often result from public investments and improved public programs. By giving local authorities autonomous revenues, LPTs can foster improved local accountability and responsiveness. The various types of taxes applied to land and improvements are described, with an important distinction drawn between those LPTs that represent one-time taxes, fees and charges and the annual LPT that yields on-going revenue. The one-time taxes and fees are applied when something about the land changes, such as ownership or land use. The annual LPT applies to all taxable land. One-time taxes and fees are best used to fund specific projects, whereas the annual LPT can be used to fund continuing services or to underwrite modest debt levels. Four practice and capacity perspectives. To be effective, implementations of LPTs need to be informed by, if not constrained by, four considerations (Gordon R., 1996).

The LPT system should reflect and be sensitive to the accepted institutions and traditions related to land and property rights. If land is seen as an economic commodity in the local culture, and individual private ownership is accepted, then the incidence of the LPT should fall on land owners, and sanctions should include the government's right to seize and sell the land (eventually) if taxes are not paid. On the other hand, if land is viewed by the local culture as fundamental to achieving basic human rights, or if private ownership is foreign to the culture, then it will likely be more practical to make the occupants of land responsible for paying the tax. In such settings, tax administrators need to be able to use a combination of public exposure, the denial of taxpayer services and the pursuit of other taxpayer assets besides the land if the taxes are not paid. A national taxpayer identification system is of great value in such situations (Bahl R., 2009, p. 21-24; Rudnik R., Gordon R., 1996).

Implementing the LPT requires a fiscal cadaster and the LPT system must reflect the realities of the current formal and informal systems for registering and acknowledging rights to land and property. If such rights are publically recorded and actively enforced by the judiciary, then the fiscal cadaster can be built around the legal cadaster or land book. But if many properties are not formally registered, then the fiscal

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cadaster should be used as an intermediate step that land holders can use to document and have their tenure claims recognized. The fiscal cadaster will not help much with resolving boundary issues or in resolving competing claims to ownership, but it can be used to link taxpayers to parcels of land and document that linkage, thus contributing to a broader land inventory. In this, the interests of tax administrators and taxpayers are closely aligned (Almy R., Dornfest A., Kenyon D., 2007; R. Bahl, J. Martinez-Vazquez, J. Youngman, 2007).

The design of real estate property tax system is in the last period a subject for debate, attracting attention in the political, social or academic debates. This is due because taxation on real estate property could be (Anghel I., Grover R., 2007; Arnold J., Brys B., Heady C., Johansson A., Schweltnus S., Vartia L., 2011, p. 51-80):

a) New source of revenues. In a couple of European countries there is an important need to find new financial resources; the fact that real estate taxes are quite low in many countries creates the opportunity for these countries to obtain a convenient not expensive and short term solution.

b) New source of economic growth. There are recent studies which identified taxes on real estate property as some of the least detrimental to GDP. In this context there are couple of voices which sustain the necessity to move the tax intensity from labor taxes (that discourage employment) towards taxes on consumption and property.

c) A source of stability. Taxes on property are recurrent and offer an important advantage of a high stability of tax revenue flow, which facilitates a reliable budgetary planning. This could be an important issue for indebted economies, an attractive feature particularly for highly indebted countries, for which increasing in stability of revenues is very important in achieving good debt financing conditions on the global capital market (Crowe C., Dell'Araccia G., Igan D., Rabanal P., 2011; Grover R., Anghel I., Pamfil V., 2007; Johansson A, Heady C, Arnold J., Brys B. and Vartia L., 2008).

A fundamental feature of taxes is that they always constitute a flow, as they are paid by deducting parts of other flows generated by economic entities. In order to pay the tax, they have to give part of their incomes – in case of direct tax, or expenses – in case of indirect tax; both these figures are classified as economic categories

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known as flows. This feature of taxes is called then the flow logic of tax. The conclusion concerning the flow nature of tax is elementary, but brings serious, though not always noticed, consequences. Since the tax is a flow itself, then, firstly, when creating it as a category of public finance we should always define proper reference to the value of another flow; it should be created in line with the other flow, for example the flow of income, since only the flow is an effective source of income. The tax is a monetary flow and may only be referred to a monetary flow. It is paradoxical to see some legal activities taxed, even though they are of purely internal nature for enterprises. It turns out that there is a tax on payments towards the company working capital; company articles of associations are taxed with civil law activities tax, there is tax on changes to contracts, etc. Thus tax is, as a result, becoming a sanction without any economic justification.

In case of property taxes, the taxation base for real estate tax or inheritance tax is the property value. The flow nature of the tax means that the taxpayer must pay it, giving part of their flow of income. Therefore, if the taxpayer does not have such flow, they have to devote their savings or take out a loan to pay the tax, and even to cash in the whole or part of the possessed property (inheritance). Therefore it only seems natural to argue that the property tax should not lead to the diminishing of the taxpayer's property (property substance) (Owsiak S., 2002, p. 156). We may pose a question whether due to lack of economic logic in property tax it should be eliminated from the tax system. In my opinion, it should not, provided the taxation is imposed on the income generated by the property. Such an approach is economically rational, since even though property is the object of taxation and the taxation base is the value of this property, the tax is paid on the flow of income from this property.

We can thus point at some situations in which property taxation is justified, even though taxes do not directly reflect in their structure the flow nature of taxation: First of all, this taxation makes sense when the income obtained from the property is hidden and there are no formal grounds to collect tax on it. So property tax may be a form of indirect taxation of income, as it preserves in this case its flow nature. Secondly, property taxation is justified when the state wants to exert pressure on the owners of manufacturing property to use it appropriately. An example here is the

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tax on land for construction, which encourages its owners to make it profitable (Gaudamet P. M., Molinier J. 2002, p. 481). The desire to exert pressure on an economic entity to use its property effectively, or the willingness to tax hidden property may also serve as justification for taxation of large residential real estates. The tax imposing authority assumes that the real estate is or may be used for paid rental, so there is income obtained from it, though such assumption may often be completely unjustified and then we will observe the negative effects of the property tax (Żyżyński J., 2008, p. 178). Taxation of production property, governed by the desire to activate inactive property, may lead to weakening the motivation to invest. An entrepreneur, faced with a prospect of paying tax on inactive property – even when such property cannot be efficiently used without his fault – will be afraid to take up the investment risk, especially in uncertain economic situation conditions. In this way, property tax worsens the economic situation.

Thirdly, property taxation is economically and socially justified when the owners of particular categories of property use state services related to that property and tax is a form of payment for these services. An example here is tax on transport means (construction and maintenance of roads) or betterment levy (increase in property value as a result of particular administrative and legal activities).

Fourthly, property taxation is justified when public authorities find it necessary to impose particular restrictions (high tax rates) on some forms of property when such forms are considered economically or socially undesirable, or when some ways of accumulating such property is considered improper. In fact, in such situations it is the flow that is taxed – the flow of incomes or transactions related to that property.

One of property tax forms is the cadastre tax, based on common assessment of real estate and tying the amount of paid tax to the real estate value (based on various parameters). However, the concept of assessing the tax according to market value, underlying the tax, is logically inconsistent. The market value of real estate originates only at the moment of performing a trade transaction and is an *ex post* category, therefore we cannot determine it in advance, as it is determined by the seller and the buyer, sometimes in a long process of complex negotiations. Only their cooperation may lead to the establishment of the price for such real estate, while prices of similar

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real estate “being a reference point for establishing the value of the real estate” are only one of many factors supporting, but not directly determining the final price for the real estate. The system of administrative valuations generates the risk of proper establishment of tax rates. They should take into account the taxpayer’s payment capacity, defined as their flow of incomes from which the tax can be paid, without being forced to resign from other needs the taxpayer may have. It should be remembered that apart from “market value of real estate”, there are other methods of establishing the level of taxation available. Before the Second World War in Poland there was a tax on real estate imposed on all real estate in urban communes, including buildings together with backyards and squares. However, arable fields, meadows, pastures, orchards and the land covered with forest and by the water were all excluded from taxation. The law-makers assumed that such real estate may bring income, but this income is uncertain, seasonal and often depends on a number of random factors, therefore it should be exempted from taxation. Similarly, the real estate belonging to the Treasury, local self-government, social insurance institutions, religious associations, scientific and educational institutions as well as the land under railways and public roads, real estate occupied by hospitals and uninhabited and used buildings due to bad technical conditions (an analogy to contemporary ‘technical considerations’) – they were all exempted from taxation. What is interesting, the tax base was the payment received for renting or leasing the real estate, collected according to rates valid for a previous tax year. If the real estate was not rented, then the taxation base was the hypothetical rent that could be obtained from this real estate (calculated with the aid of a comparative method referring to other, similar real estate) (Polish President’s Decree of 14th January 1936 on Collecting One-Off State Tribute on Real Estate and Capital Property, Journal of Laws 1919 No 11 item 128).

The taxation base for a tax year was the payment from renting or leasing due for the previous year (up to 10% of this value). If the property was not rented – the taxation base was established using the hypothetical rent that could be earned on this real estate (from 3 to 5%). If this value could not be established, the so-called common value was adopted, determined on the basis of prices paid for similar real estate in the previous tax year. If the owner incurred losses as a result of non-payment of

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the rent by tenants – such losses were taken into account when establishing the tax due. Thus it was a typical income tax on hypothetical income obtained from property and it met the logic of the flow nature of tax. There was also tax on premises. It was paid by individuals and legal entities which occupied premises. The tax ranged from 8% to 12% of the tax base, which in this case was the actual rent valid in the previous year. The 8% rate was for one-, two- and three-room premises, 12% - for premises with four and more rooms. With both tax on real estate and tax on premises, the taxation base was assumed to be the attainable income on the real estate. Thus it was neither transaction nor sale value. The tax was more of the turnover than income type and taxed the generated flow of income. It seems rational to assume that income from rent should be taxed with separate rates and should be given the form of a small, homogenous tax on real estate, referenced to the market rates of rent. Such approach in fact turns real estate tax an income tax, while the cadastre value of the real estate is only a formal basis on which we determine its size. This approach assumes that a taxpayer owning a real estate receives regular income allowing them to pay the tax. For example, an owner of a single family house does not pay the rent, but has to pay real estate tax, thus financing local services and utilities which they are using. We should also emphasize the fact that tying the tax to market value of the real estate brings one more serious drawback, not frequently noticed, which makes this tax not only logically incoherent, but also economically irrational. The tax burden simply becomes the function of an economic situation on the real estate market.

The improving economic situation may even bring about the speculative explosion of market prices, and then tax burden will dramatically grow. If the real estate tax was to depend on market prices, this would mean great results for the budgets of local authorities, but at the cost of significant burden placed on taxpayers, irrespective of their current incomes. An opposite situation – economic downturn and falling prices – would obviously lead to lower obligations of taxpayers and local finance crisis, making the situation of public finance extremely unstable. Unfortunately, many countries have developed the property tax systems which do not respect such elementary principles of economic logic. In fact, the only rational justification for the cadastre tax related to the real estate value is an argument belonging to the

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field of sociology rather than economics: by imposing a relatively high burden on inhabitants of housing districts, tax becomes an element of their selection, preventing to some extent the inflow of people who cannot meet economic requirements of this tax.

Tax is imposed not only on the property, but also on changes in the form of possessing this property. However, from the economic point of view, it is only a change in the form of storing assets (property): one participant of a transaction exchanges their flat (for example inherited) into money, while the other – money into a flat. If the authorities impose tax on this transaction, they only motivate its participants to hide its real value, whereas the use of an arbitrary valuation system by official appraisers – even though it is based on official tables of market prices or value assessment – may still differ from the actual value. Obviously, such transaction is associated with the flow of cash between the parties. Nevertheless, the economic content is the change of the form of ownership of property, so taxation of this activity has serious economic faults. The operation of selling real estate is of property nature, but it may bring income. Tax burden only makes sense when the difference between the selling price and the purchasing price is positive, as then there is profit to be taxed. If this difference is negative, though, that is if the seller incurs a loss, the tax on the sale would only increase this loss. Sale tax is imposed on the whole amount obtained from the sale – the value of a flat determined during the sale transaction. An attempt at imposing tax on real income would require knowing the actual price at which it was sold earlier, which would practically be impossible, as there would be a temptation to hide this price or to provide false data in sale contracts. This may partly justify the application of tax on revenue, though it seems there are some organizational methods of total minimization of the possibility of such abuse. The justification of this form of taxation does not hide an undisputable fact that it goes against the conclusions drawn from the flow nature of tax as an economic category. Property taxes, as can be seen, arouse many doubts, have various faults, disturb the division and trade in property, but are also principally contradictory to the logic of a tax as an economic flow.

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Aims of paper. Methods

The main goal of the dissertation is to present and evaluate legal regulations concerning systems and models of real estate taxation in the European Union countries. The analysis of legal regulations includes both the point of view of the taxpayers and public administration bodies (tax authorities). Additional goals of the dissertation comprise: (1) Indicating directions of legal optimization of real estate tax systems, taking into account the principles of tax equality and universality as well as tax effectiveness and (2) Identifying disadvantages and advantages of the surface model as well as *ad valorem* model. The evaluation of legal regulations and solutions concerning systems of real estate taxation in the European Union countries was limited to the real estate tax and reflects the search for legal governance in real estate taxation from the point of view of taxpayers (individuals and entrepreneurs) and public administration units (mostly local self-governments). The evaluation of current and projected solutions and amendments to legal regulations includes both short-term and long-term perspective. As basic tools for conducting a wide analysis and evaluation of legal models and forms of real estate taxation in the European Union countries we will use the following research methods:

- a) comparative analysis of legal specificity of real estate taxation in the EU countries, with special attention paid to the structure of the real estate tax and its disadvantages and advantages from the point of view of the theoretical tax principles;
- b) functional analysis, which was applied in order to grasp the cause and effect relationships of the examined legal regulations as well as drawbacks and benefits of particular models of real estate taxation;
- c) research method presented dynamically, essential for the global look at legal specificity of real estate tax;
- d) methods of statistical analysis of the examined issues and relationships.

Exposition of main material of research with complete substantiation of obtained scientific results. Discussion

A system of property taxation should be understood as a group of taxes valid

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in a given country, related to ownership as well as the legal transfer of particular property elements, subject to taxation on the basis of currently valid legal regulations. Principally, their constructional ties with property should be manifested – apart from the object of taxation itself – in the construction of the taxation base. The object of taxation in property taxes is referred to a wide circle of events, often quite heterogeneous. Thus we can venture to say that it would be difficult to adopt a solution consisting in universal definition of property which the lawmakers link to tax obligation. There is no doubt that the object of taxation in property taxes has a broad scope, therefore it requires that the definition of property be adopted in its narrow or broader sense. For the purpose of this dissertation – due to the fact of narrowing research areas to taxes placing burden on possessing property – we assumed the definition of property in its narrow meaning (property mass covering only particular assets accepted by the lawmakers).

In practice, the tax policy task, apart from its fiscal function is to ensure the possibility of regulating and stimulating influence on social and economic processes (Wołowiec T., Skica T., 2013, p. 88-104). With reference to property taxes, legal regulations should not omit (also with reference to implemented reforms) social and economic contexts of territorial self-government operations. It should be remembered that the expectations towards property taxes cannot be too high, we should also remember to take into account specific features of property taxes. Therefore in each tax policy shaped by legal norms there should be a postulate related to effective use of real estate, shaping rational special structure in cities and tax solutions ecology-oriented.

The diversity of views on classifying taxes on agriculture and forest land, developed and undeveloped urban real estate as belonging to the categories of property taxes, revenue taxes or mixed taxes, encourage us to propose certain solutions limiting negative legal and economic phenomena within property taxes. From this perspective the following would be desirable:

- 1) To organize legal regulation of property taxes by adopting permanent, easily identifiable features;

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- 2) Everywhere there is separate taxation of agriculture and forestry, general principles of taxation should be introduced (for example income tax – an example of a tax imposed on generating income, property tax on the value of possessed real estate – an example of taxation on resource, VAT tax – an example of a tax imposed on the use of income);
- 3) Taking into account mechanisms of substantive selection promoting development goals, limiting disturbances to the market mechanism;
- 4) Detailed analysis of necessary elements in the construction of taxes placing burden on real estate (for example residential, agricultural, forest and other) in order to reject the unjustified approach consisting in freely determining where these taxes belong;
- 5) To simplify tax constructions in order to eliminate elements typical of revenue taxes.

Analyzing the legal and formal division of taxes into direct and indirect ones, we should take the utmost care when dealing with criteria for determining the features of property taxes belonging to direct taxes. I believe we should constrain the features of direct taxes to the least controversial ones, namely:

- 1) Direct taxes are those imposed on the income or property belonging to a taxpayer or being at their disposal in a way that allows them to obtain gains property;
- 2) The object of taxation is identical with the actual source of tax (direct relationship), since generated income or possessed property directly refer to the money with which the tax will be paid;
- 3) Direct taxes are those directly related to taxpayers tax capacity, as they are imposed directly on the source of income;
- 4) Direct taxes are those with reference to which there are possibilities of using relevant administrative registers of taxpayers and their incomes and property (cadastres) for determining their taxes;
- 5) Direct taxes are those that are closely related with the effects of an economic activity.

The property tax system is founded by a number of principles: uniformity, neutrality, stimulation of direct investment, transparency, public acceptance, buoyancy

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and cost effectiveness. Uniformity: implies proportional taxation in correlation with the “ability to pay”. A market value based system could represent a fiscal benefits because avoid the case in which taxpayers paying less than they might be willing to accept. Neutrality: a efficient tax system not distort economic decisions and encourage an optimal mix of factors of production (capital, workforce, management and land). Stimulation of Direct Investments. Tax preferences and incentive are sometimes used to attract investment in a particular area. Transparency is a characteristic of democratic society. Buoyancy is related with the ability of tax to rise or to fall in accordance with the economic evolution (Anghel I., Sopis C., 2012; Grover R., Anghel I., Pamfil V., 2007).

Almost all local governments worldwide rely, at least to some extent, on property taxation to pay for local services. Economists have long argued that the property tax is a good tax for local government because it is fair (in relation to the benefits received from local services), it is difficult to evade, and it promotes local autonomy and accountability (Bird R.M., 2001). Although most of the literature talks about “the” property tax as if it were one tax, it is really two different taxes—a tax on residential property and a tax on non-residential property. The economic case for the residential property tax is quite strong; the same cannot be said of the nonresidential property tax. In practice, however, in most countries where property taxes are levied, the tax rate is higher on non-residential properties than on residential properties.

Economists consider residential property taxes to be appropriate as a source of revenue for local governments, in large part, because of the connection between the types of services funded at the local level (for example, good schools, access to roads and transit, and so on) and the benefit to property values. To the extent that people understand that their property taxes are being used to pay for local services, there is a link between the benefits and costs of local services that encourages them to make efficient fiscal decisions (Oates W.E., 2010). Both the benefits derived from local services and the taxes are capitalized into property values these services translates into higher property values. Higher taxes, other things being equal, translate into lower property values, because purchasers faced with two similar houses will offer less for the house with higher taxes. Of course, this analysis is based on the following

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assumptions: that local property taxes do in fact finance services that benefit property values; that the main burden of such taxes falls on local residents; that both tax rates and service levels are decided by local residents; that those who wish to “buy” other combinations of services and tax rates are free to move to other jurisdictions; that—impelled by their sensitivity to property values—people will act rationally in response to such signals; and that local governments do what voters want them to do. The property tax (based on the market value of land and improvements) discourages building and results in the under-utilization of land. That is, the amount of capital per unit of land is less than the economically efficient amount. Both the benefit-based and capital tax views have some validity. The property tax is not purely a benefits tax, because homeowners who improve their houses face higher taxes, which would, in theory, discourage them from doing so. At the same time, the benefits of local programs are reflected in local property values. Another reason that the property tax is regarded as a good tax for local governments is that property is immovable—it cannot shift location in response to the tax—and it cannot be hidden. Even the owner of a vacant property is taxed under the property tax. These characteristics make it difficult to evade. Although a change in property tax may be capitalized into property values in a particular community, and in the long run tax differentials may affect where people locate, these effects are smaller than the distortions created by income and sales taxes at the local level. This characteristic of the property tax makes it somewhat easier to levy and collect than other taxes and thus offers municipalities the potential to raise significant revenues.

To the extent that the property tax is levied only by local governments, it can be an important instrument of local autonomy. To ensure local autonomy, however, the tax cannot be used to any significant extent by other levels of government and tax rates must be set locally and not by a senior level of government. The extent to which local governments have exclusive rights over the property tax contributes to its role in promoting local autonomy. The property tax is a highly visible tax. Unlike the income tax, for example, the property tax is not withheld at source. Rather, taxpayers generally have to pay monthly mortgage payments to financial institutions (Slack E., 2011).

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A number of Member States have begun shifting more of the tax burden onto immovable property, as recurrent property taxes are considered to be among the least detrimental to growth. Moreover, the measures introduced by some Member States are designed to make property taxation more progressive, by targeting higher-end properties so as to minimize the potential social impact. In 2013, Lithuania increased the upper limit of the tax rate on immovable property. A new local property tax came into force in Ireland in July 2013. Residential properties are now subject to a tax rate of 0.18 %, up to the value of EUR 1 million, rising to 0.25 % on the excess above this threshold. In April 2013, the United Kingdom introduced changes to legislation on the taxation of properties with a taxable value over GBP 2 million owned by specified non-natural persons, in order to close certain tax avoidance loopholes. The threshold for this tax will be gradually reduced to GBP 500 000 in 2016. In 2014, Romania introduced a new tax of 1.5 % on the book value of specific types of building that were not already subject to local property taxes. Cyprus increased the tax rates applicable to immovable property and also widened the property tax base in 2013. Spain extended the application of its surcharge on real estate taxation from 2013 to 2015. The Netherlands introduced a new tax on renting out social housing in 2013. This rate will increase from 0.381 % of the value in 2014 to 0.536 % of the value in 2017. Both Greece and Italy merged several taxes on immovable property into one in 2014. In Italy, houses are subject to a new tax (TASI) related to indivisible services supplied by local communities to occupiers, both owners and renters. In Slovenia, the new tax on immovable property was abolished in 2014 after a decision by the Constitutional Court. A number of Member States reduced recurrent property taxes. In 2013, Estonia, Italy and Latvia reduced recurrent property taxes for specific groups: Estonia abolished the land tax on small and medium-sized residential properties; Italy excluded a person's main or only residence (apart from luxury houses) from the recurrent property tax; and Latvia introduced a law allowing a possible reduction in property taxes for families with three or more children. Only a small number of Member States (Greece, France, Italy, Cyprus, and Romania) have announced plans to update cadastral values. In many countries, the property values used for the purpose of taxation are out of date. As property prices can have changed

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quite differently in different regions, use of out-of-date valuations can create problems in terms of the equity of the tax. Furthermore, updating cadastral values can offer an opportunity for increasing revenue. In 2013, Portugal completed a major exercise involving the revaluation of 4.9 million properties, in order to provide up to date valuations as a basis for the new property tax regime. The value used for calculating property tax still differs however from the market value in some cases, and the taxable values will need to be updated regularly, with due consideration given to the consequences of revaluations. With the enabling law for reforming the tax system, Italy will update the current cadastral values. The aim is to bring them in line with market values in order to improve fairness in property taxation. A number of countries increased property transfer taxes while others reduced them. Recurrent property taxation on immovable property is generally considered more efficient than taxing transactions involving property, due to the frictions in the market which are created by the latter. Gearing the system towards recurrent taxes could help to improve the overall design of property taxation. The Czech Republic and Finland nonetheless increased property transfer taxes, introducing new rates of 2 % and 4 % respectively Italy reduced the rate applicable to main or only residences to 2 % and increased the rate for other immovable property to 9 %, as of January 2014 . In March 2014, the United Kingdom introduced the lower threshold of GBP 500 000 (previously GBP 2 million)) for the 15 % tax rate applying to non-natural persons purchasing high-valued property. Having introduced a capital gains tax on immovable property, Greece reduced its real estate transfer tax to 3 % in 2014 (Tax Reforms in EU Member States 2014).

All governments had to deal with various aspects of property tax policy design – determining what is included in the tax base, assessing properties, setting tax rates, and administering the property tax system – although the focus was different in different places. This conclusions presents each of these elements of property tax reform in a little more detail. Bahl (Bahl R., 2009) sets out several logical steps in preparing a property tax reform: (1) do a detailed diagnostic of the current system to understand what is working and what is not as well as to determine clearly the objectives of the reform -- revenue mobilization, fiscal decentralization, land use control, etc.; (2)

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develop an appropriate tax policy design with respect to choice of tax base, rate structure, exemption policies, etc.; (3) design the administrative reforms needed to implement the tax designed such as coverage, valuation, record keeping and collection; and (4) monitor carefully the success of the reform with such quantitative indicators as collection rate, revenue collections, assessed to market value ratios, etc. This advice seems sound but it is unclear that any country has actually done all this and, as the cases in Section 2 above suggest, politics seems to have dominated most country discussions of property tax reform and largely determined the outcomes. The reasons for undertaking property tax reform vary over time and across countries. Good reasons for reform include increasing local revenues (and perhaps reducing transfers to local governments), improving local fiscal performance, removing inequities in the tax system so that there is similar treatment of similar properties, reducing administrative and compliance costs by simplifying the tax system, and improving efficiency by reducing the impact of taxes on households and business decisions. The economic approach to property tax reform emphasizes efficiency. In reality, however “tax policy is the product of political decision making, with economic analysis playing only a minor supporting role” (Holcombe R. G., 1998, p. 359-371). As a rule, politicians are less concerned with economic efficiency than with equity and public acceptability – concerns that often lead to such structural elements as exemptions, procedural elements such as less frequent assessments, and an array of supposedly transitional limits and constraints on the tax. A well-designed reform is more likely to succeed; but it is not necessarily more likely to be accepted. Tax reform is always as much or more a political exercise as it is a technical one. Someone always loses from tax reform and losers are vocal in their opposition. Nonetheless, reform requires not only sufficient and sustained political will and support to ensure that it is implemented but sufficient political acceptance to ensure that it is sustainable and sustained. For such support to be generated, taxpayers (and local governments) must also accept the reform. Both are more likely to buy into reform if they have been consulted and feel that their issues have been properly heard. Consultation raises awareness of the reform and stakeholders who have participated in the consultation process are less likely to oppose it. Of course, consultation also runs the risk of con-

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solidating opposition to reform: it is not always easy to lead people to the light, especially if they have little trust in their leaders. As discussed earlier, it is not surprising that property taxes – and especially increases in property taxes – may be perceived to be unfair and arbitrary. Taxpayers’ perceptions of how fair the property tax is and how fairly it is implemented affect the extent to which local governments can raise the tax. There is some – though hardly overwhelming -- evidence that people treat local taxes as essentially prices for local services, an outcome which is on the whole to be welcomed. More and better ‘taxpayer education’ has often been put forward as a way to increase public understanding and acceptance of rising property tax bills. However, the inherent arbitrariness of even the best assessment procedures when combined with the complex institutional process that lies behind the ‘local tax demand’ almost guarantees that many taxpayers will not understand - or trust - the basis on which property values are assessed or how the tax bills they receive are related to those assessments. A proper communications strategy engaging businesses, unions, special interest groups, academics, and the broader public may help to overcome some of the obstacles to property tax reform. But communication has to be in a form that taxpayers understand. All too often, there is a striking divergence between the popular (and media) ‘frames’ for property tax policy and those of the experts, who “speak an obscure and unrecognizable language to each other” and “have forgotten how to communicate and ‘frame’ the property and land tax issue sensibly” (Pagano M.A., Jacob B., 2008, p. 30-31). One way to overcome both the apparent distrust of what politicians say and the incomprehensibility of what experts say may be to create a credible independent panel outside of the direct influence of the politicians or administration consisting of both those who know the subject (experts) and people who know how to communicate with non-experts to help develop and interpret the reform package to the public.

Conclusions

A system of property taxation should be understood as a group of taxes valid in a given country, related to ownership as well as the legal transfer of particular property elements, subject to taxation on the basis of currently valid legal regulations. Princi-

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properties so as to minimize the potential social impact. In 2013, Lithuania increased the upper limit of the tax rate on immovable property. A new local property tax came into force in Ireland in July 2013. Residential properties are now subject to a tax rate of 0.18 %, up to the value of EUR 1 million, rising to 0.25 % on the excess above this threshold. In April 2013, the United Kingdom introduced changes to legislation on the taxation of properties with a taxable value over GBP 2 million owned by specified non-natural persons, in order to close certain tax avoidance loopholes. The threshold for this tax will be gradually reduced to GBP 500 000 in 2016. In 2014, Romania introduced a new tax of 1.5 % on the book value of specific types of buildings that were not already subject to local property taxes. Cyprus increased the tax rates applicable to immovable property and also widened the property tax base in 2013. Spain extended the application of its surcharge on real estate taxation from 2013 to 2015. The Netherlands introduced a new tax on renting out social housing in 2013. This rate will increase from 0.381 % of the value in 2014 to 0.536 % of the value in 2017. Both Greece and Italy merged several taxes on immovable property into one in 2014. In Italy, houses are subject to a new tax (TASI) related to indivisible services supplied by local communities to occupiers, both owners and renters. In Slovenia, the new tax on immovable property was abolished in 2014 after a decision by the Constitutional Court. A number of Member States reduced recurrent property taxes. In 2013, Estonia, Italy and Latvia reduced recurrent property taxes for specific groups: Estonia abolished the land tax on small and medium-sized residential properties; Italy excluded a person's main or only residence (apart from luxury houses) from the recurrent property tax; and Latvia introduced a law allowing a possible reduction in property taxes for families with three or more children. Only a small number of Member States (Greece, France, Italy, Cyprus, and Romania) have announced plans to update cadastral values. In many countries, the property values used for the purpose of taxation are out of date. As property prices can have changed quite differently in different regions, use of out-of-date valuations can create problems in terms of the equity of the tax. Furthermore, updating cadastral values can offer an opportunity for increasing revenue. In 2013, Portugal completed a major exercise involving the revaluation of 4.9 million properties, in order to provide up to

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date valuations as a basis for the new property tax regime. The value used for calculating property tax still differs however from the market value in some cases, and the taxable values will need to be updated regularly, with due consideration given to the consequences of revaluations. With the enabling law for reforming the tax system, Italy will update the current cadastral values. The aim is to bring them in line with market values in order to improve fairness in property taxation. A number of countries increased property transfer taxes while others reduced them. Recurrent property taxation on immovable property is generally considered more efficient than taxing transactions involving property, due to the frictions in the market which are created by the latter. Gearing the system towards recurrent taxes could help to improve the overall design of property taxation. The Czech Republic and Finland nonetheless increased property transfer taxes, introducing new rates of 2 % and 4 % respectively Italy reduced the rate applicable to main or only residences to 2 % and increased the rate for other immovable property to 9 %, as of January 2014 . In March 2014, the United Kingdom introduced the lower threshold of GBP 500 000 (previously GBP 2 million)) for the 15 % tax rate applying to non-natural persons purchasing high-valued property. Having introduced a capital gains tax on immovable property, Greece reduced its real estate transfer tax to 3 % in 2014 (Tax Reforms in EU Member States, 2014).

Revenues from public tribute on property constituting the ownership of other entities. Analyzing the role of property tax in the contemporary Polish economy, we must remember that the theory of taxation has formulated a principle stating that due to unfavorable effects, tax should not be imposed on property accumulated in the past. In practice, the task of tax policy, apart from ensuring means necessary to finance the creation of public goods, is also to guarantee the possibilities of affecting social and economic processes. However, it seems that the expectations towards property taxes in this respect cannot be too high and that specific features of property taxes should be taken into account. Taxes on possessed properties are classified as material performance, which means that special importance is attributed to the objects of taxation. Their structure shows that the use of appropriate tax and its amount depend not on personal features of a taxpayer but on the type of property.

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Property tax revenues are relatively inelastic because unless the base or rate is changed revenues do not change. Unlike income or sales taxes, property taxes do not automatically increase with growth. Even if the potential tax base does increase with growth, as with a market-value based tax, property values generally respond more slowly to changes in economic activity than do incomes or sales. This inelasticity is exacerbated because few of the countries that use market value assessment update property values for taxation purposes on an annual basis. In those countries where property taxes are based on the area of the property, the tax responds even more slowly to annual changes in income. In order to maintain property tax revenues in real terms (let alone increase them), it is thus usually necessary to increase the rate of the tax. One result of inelasticity is more accountability because local authorities must increase tax rates and persuade taxpayers that they are justified in doing so.⁵⁰ But this good feature is seldom considered desirable by those held accountable. As times change, perspectives may change. When the economic tide is rising, local governments deplore the inelasticity of the property tax both because it means their revenues do not expand automatically with growth and because they have to face the voters with higher rates simply in order to maintain revenues in real terms. On the other hand, the stability of property tax revenues may be considered a good feature by local governments in times of recession since it provides them with a more stable fiscal base for financing local services than they would otherwise have. At the same time, however, local taxpayers may again be very unhappy because their property taxes do not go down as quickly as their incomes and probably not as quickly as the value of their properties. In the last few years, for example, although property prices have fallen sharply in some OECD countries, property taxes did not fall as quickly and to the same extent.

Property tax reform, in countries that have tried it, has been difficult, however no matter how economically desirable the long-run outcome of property tax reform may be in terms of the equity and efficiency of the tax, its transitional effects may be sufficiently politically undesirable to forestall any attempt at reform. In short, there will always be winners and losers from tax reform: those who were relatively over-taxed before the reform was implemented will pay less taxes; those who were rela-

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tively undertaxed before the reform will pay more taxes. The losers from a change in policy (even if they are the minority) tend to be very vocal, because they value their losses more than the winners (even if they are the majority) value their gains. Furthermore, as the losses tend to be concentrated and the gains dispersed, as is often the case with tax reform, negatively affected interests will be motivated to spend time and resources in political action that can result in permanent, institutionalized groups (for example, seniors, or the owners of office towers, hotels, and waterfront properties) that oppose reform Tax Reforms in EU Member States, 2014).

Another problem with tax reform is the widespread suspicion that any change in tax policy will be used by governments to raise the aggregate level of taxes so that the number of losers and the magnitude of the losses outweigh the number of gainers and the magnitude of the gains. In short, the public perception is that tax reform is not revenue-neutral—a perception which, at least in the cases where the goal of reform is to increase revenues, is often correct. The success of property tax reform will depend on public education - taxpayers need to understand how their assessments are calculated. They need to know what will happen if their assessment increases. Will property taxes automatically increase or does it depend on what happens to other assessments in the city? Will tax rates decrease if assessment increases? What services are funded by the property tax? If property tax reform is expected to result in major tax shifts among taxpayers, the success of the reform will also depend on the introduction of some form of phase-in mechanism. Phase-ins are almost invariably politically necessary to cushion the impact of reform. Some form of relief is also needed for low-income taxpayers. Property tax credits (or “circuit-breakers”) that relate property taxes to income are best at providing relief to low-income taxpayers. For elderly taxpayers who have seen their property values increase but their incomes remain fixed, some form of tax deferral is appropriate. The property tax, at least the residential property tax, is a good tax for local government, but there is room to improve the tax and increase the revenues collected. Property taxes are difficult to reform, however, because politics generally outweighs economics in this very visible tax and the losers from tax reform tend to be more vocal than the winners. In any event, the property tax can never be the sole municipal tax, especially for local governments

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that are doing more than providing property-related services and where a mix of taxes is appropriate. It can, however, be used more heavily in most countries than it is at the present time.

Since the pockets of the Minister of Finance are empty, additional resources for the needs of local authorities should be sought in the pockets of taxpayers, especially those with greater payment capacities. Moreover, political responsibility for heavier burden placed on some taxpayers must be taken on by local authorities – central government will definitely not do it. Taking the above into account it seems that the chances for implementing the above-described concepts of changes to property tax seem high. The political weight will fall mainly on local authorities, while the benefits will also be enjoyed by the central government, since higher incomes of self-government, *ceteris paribus* mean lower deficit of the public finance sector and will make it easier to go beyond the 3% limit and then to achieve a 1% goal for the sector deficit in relation to GDP.

The proposed solutions do not force tax increases, but only create a possibility of doing so in places where the current solutions do not fit the reality and where local authorities will manage to secure the majority of votes to do so. This will bring beneficial consequences for the development of the civic society.

The solution concerning property tax offers several significant benefits:

- Simplicity, and easiness of implementation (provided there is political will to do so);
- It improves the fairness of tax solutions, by introducing a tie between the size of burden and the value of the taxed property;
- It increases potential effectiveness of the tax, especially in large cities;
- It creates real framework for local tax and spatial policy (zoning the rates would also stimulate desirable spatial behavior);
- By changing proportions of burden imposed on entrepreneurs and individuals, it increases the responsibility of local authorities towards voters;
- Relative decrease in the taxation of economic operators may lead to widening the tax base.

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It is justifiable, however, to ask about the political feasibility of the discussed changes. What are the risks associated with the foreseeable arguments against such changes? How can we limit these potential threats? It cannot be concealed that the proposed changes lead to increasing tax burden, mostly related to maintaining residential property. We may expect to hear arguments referring to excessive burden imposed on, for example, the elderly and the single tenants living in flats in the most expensive districts of the city, who would be forced by the solutions discussed here to move to other districts. One may also argue that the proposed options contribute to further spatial social segregation in the city, with all negative aspects of such process. The potential allies in efforts to implement the proposed changes should be local authorities, especially those whose budgets will benefit from the introduced changes. This support, however, does not have to be strong. It should be remembered that so far self-government attempts at changes in financing their tasks have rarely been aimed at increasing their income autonomy. More frequently the attention has been focused on more politically secure attempts to introduce regulations which would secure greater resources from the subsidy, donations or shares in incomes from the state taxes.

Increasing taxes has always been a challenge to those in power. The past decade in Poland in particular has been the trend for lowering taxes, which has not always been economically justified and was substantiated mainly with political reasons. The financial crisis in Europe and the USA, which has caused serious deterioration of the public finances in Poland, calls for brave actions both on the income and expenditure side. Some of these actions have already been performed: the pension contribution has been raised, the tax on minerals has been introduced – they provide significant additional income for the budget. A question arises of how realistic other changes are.

In this situation territorial self-government units cannot count on either greater flow of transfers from state budget or on systemic support for their actions on the expenditure side, aimed at rationalization – that is lowering expenditures of local authorities. It is clear that the weakened government will not open another area of conflict, aiming, for example, at rationalizing the provisions of the Teacher's Charter.

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[DOI 10.5604/01.3001.0012.2179](https://doi.org/10.5604/01.3001.0012.2179)

References:

1. ALMY R. (2012). *A Survey of Property Tax Systems in Europe, a report prepared for the Ministry of Finance of Slovenia*, Lincoln Institute of Land Policy, Cambridge.
2. ALMY R., DORNFEST A., KENYON D. (2007). *Fundamentals of Tax Policy*, Kansas City IAAO.
3. ANGHEL I., GROVER R. (2007). *Opportunities and constraints on the development of real estate taxation in transitional countries*, 14 th Annual European Real Estate Society, www.eres.org, London, June.
4. ANGHEL I., SOPIS C. (2012). *Valuation for property tax purpose. Analysis of the EU transitional countries*, http://www.fig.net/commission7/Hungary_2012/6.4_paper_anghel_et_al.pdf (date: 22.02.2105).
5. ARNOLD J., BRYNS B., HEADY C., JOHANSSON A., SCHWELLNUS C., VARTIA L. (2011). *Tax policy for economic recovery and growth*, "The Economic Journal", No 121.
6. ATKINSON A. B. (1977). *Optimal Taxation and the Direct versus Indirect Tax Controversy*, "Canadian Journal of Economics", vol. 6.
7. BAHL R. (2010). *Land Taxes versus Property Taxes in Developing and Transition Countries*, [in:] Dick Netzer, (ed.), *Land Value Taxation: Can It and Will It Work Today?* Lincoln Institute of Land Policy, Cambridge, MA.
8. BAHL R. (2009). *Property Tax Reform in Developing and Transition Countries. paper prepared for Fiscal Reform and Economic Governance Project*, USAID, December 2009.
9. BAHL R. (2009). *Property Tax Reform in Developing and Transition Countries*, Report prepared for the United States Agency for International Development under a contract with Development Alternatives, Inc. under the Fiscal Reform and Economic Governance Task Order, GEG-I-00-04-00001-00 Task Order No. 07.
10. BAHL R. LINN J. (1992). *Urban Public Finance in Developing Countries*, New York, Oxford University Press.
11. BAHL R. WALLACE S. (2008). *Reforming the Property Tax in Developing Countries: A New Approach*, paper presented to a conference on "What Role for Property Taxes?" Georgia State University and Lincoln Institute of Land Policy.
12. BAHL R., MARTINEZ-VAZQUEZ J., YOUNGMAN J. (2007). *Making the Property Tax Work: Experiences in Developing and Transitional Countries*, Lincoln Institute of Land Policy, Cambridge.
13. BIRD R. M. (2001). *Subnational Revenues: Realities and Prospects*, Washington, DC, World Bank Institute.
14. CROWE C., DELL'ARICCIA G., IGAN D., RABANAL P. (2011). *How to Deal with Real Estate Booms: Lessons from Country Experiences*, IMF "Working Paper", No 4.

ISSN 2543-7097 / E-ISSN 2544-9478

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[DOI 10.5604/01.3001.0012.2179](https://doi.org/10.5604/01.3001.0012.2179)

15. ETEL L. (ed.), (2002). *Europejskie systemy opodatkowania nieruchomości*. Biuro Studiów i Ekspertyz, Kancelaria Sejmu, Warszawa.
16. ETEL L, LISZEWSKI G. (2002). *Podatki majątkowe w Polsce – wybrane problemy*, Kancelaria Sejmu, Biuro Studiów i Ekspertyz, Report No 202, Warszawa.
17. FELIS P. (2012). *Elementy teorii i praktyki podatków majątkowych. Poszukiwanie ładu w opodatkowaniu nieruchomości w Polsce z perspektywy przedsiębiorców oraz jednostek samorządu terytorialnego*. Szkoła Główna Handlowa, Warszawa.
18. GAJL N. (1996). *Modele podatkowe. Podatki majątkowe*, Wydawnictwo Sejmowe, Warszawa.
19. GAUDAMET P. M., MOLINIER J. (2002). *Finanse publiczne*, PWE, Warszawa.
20. GOMUŁOWICZ A., MAŁECKI J. (2004)., *Podatki i prawo podatkowe*, LexisNexis.
21. GORDON R. (1996)., *Taxation of Wealth*, V. Thuronyi (ed.), Tax Law Design and Drafting, Washington, International Monetary Fund.
<http://www.imf.org/external/pubs/nft/1998/tlaw/eng/ch10.pdf>.
22. GRĄDALSKI F. (2004). *Wstęp do teorii opodatkowania*, SGH, Warszawa.
23. GROVER R., ANGHEL I., PAMFIL V. (2007). *Developing quality training approaches for effective property tax administration*, ERES-ESSEC Education Seminar, Paris, December.
24. HOLCOMBE R. G. (1998). *Tax policy from a public choice perspective*, “National Tax Journal” 51 (2).
25. JOHANSSON A, HEADY C, ARNOLD J., BRYNS B. AND VARTIA L. (2008). *Tax and Economic Growth*, OECD Economics Department Working Papers”, No. 620, OECD Publishing.
26. KIDYBA A. (2010). (ed.) Z. Gawlik, A. Janiak, K. Kopaczyńska-Pieczniak, G. Koziół, E. Niezbecka, T. Sokołowski, *Kodeks cywilny. Komentarz. Tom III. Zobowiązania – część szczegółowa*, LEX, komentarz do art. 871 k.c.
27. KRAJEWSKA A. (2004). *Podatki. Unia Europejska, Polska, Kraje Nadbałtyckie*, PWE, Warszawa.
28. KOMAR A. (1996). *Finanse publiczne w gospodarce rynkowej*, Oficyna Wydawnicza Branta, Bydgoszcz.
29. MASTALSKI R. (2000). *Prawo podatkowe*, C.H. Beck, Warszawa 2000.
30. OATES W.E. (2010). *Local government: An economic perspective*, /in:/ M.E. Bell, D. Brunori, and J.M. Youngman (eds.), *The Property Tax and Local Autonomy*, 9–26. Cambridge, Mass., Lincoln Institute of Land Policy, 2010.
31. OWSIAK S. (2002). *Finanse publiczne. Teoria i praktyka*, PWN, Warszawa.
32. PAGANO M. A. JACOB B. (2008). *The political economy of property taxation and land taxation*, International Studies Program Working Paper 08-23, Andrew Young School of Policy Studies, Georgia State University (December).
33. PAVLOV P., WOŁOWIEC T. (2013). *Investment and demand effects of taxation (selected issues)*. “Journal of Modern Education and Management”, 2013, No 2.

ISSN 2543-7097 / E-ISSN 2544-9478

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International Journal of Legal Studies, 1(3)2018; 233-280

[DOI 10.5604/01.3001.0012.2179](https://doi.org/10.5604/01.3001.0012.2179)

34. PAUGAM A. (1999). *Ad Valorem Property Taxation and Transition Economies*, ECSIN, "Working Paper" No 9.
35. POLISH PRESIDENT'S DECREE of 14th January 1936 on Collecting One-Off State Tribute on Real Estate and Capital Property (Journal of Laws 1919 No 11 item 128).
36. RICHARD M.B., SLACK E. (2005). *Land and property taxation in 25 countries: a comparative review*. "CESifo DICE Reaserch Report" No 3.
37. RUDNICK R., GORDON R. (1996). *Taxation of Wealth*, V. Thuronyi (ed.), Tax Law Design and Drafting, Washington, 1996, International Monetary Fund. <http://www.imf.org/external/pubs/nft/1998/tlaw/eng/ch10.pdf>.
38. SLACK E. (2011). *The Property Tax – in theory and Practice*, Institute on Municipal Finance and Governance, Munk School of Global Affairs, University of Toronto, "IMFG Municipal Finance and Governance" No 2.
39. SKICA T., WOŁOWIEC T. (2013). *Gminy w procesach stymulowania przedsiębiorczości*, „Samorząd Terytorialny” Nr 7-8.
40. SZCZODROWSKI G. (2007). *Polski system podatkowy*, PWN, Warszawa.
41. WOŁOWIEC T., SKICA T. (2013). *The instruments of stimulating entrepreneurship by local government units (LGU's.)*, "EkonomiskaIstraživanja", No 4.
42. ŻYŻYŃSKI J. (2009). *Budżet i polityka podatkowa*, PWN, Warszawa.

Sources of law:

43. THE ACT of 15th November 1984 on Agriculture Tax (Journal of Laws 1984 No 52 item 268, as amended).
44. THE ACT of 30th October 2002 on Forest Tax (Journal of Laws 2002 No 200 item 1682, as amended).
45. THE ACT of 12th January 1991 on Local Taxes and Fees (Journal of Laws 1991, No 9 item 31, as amended).
46. TAX POLICY CHALLENGES FOR ECONOMIC GROWTH AND FISCAL SUSTAINABILITY. (2014). European Commission Directorate-General for Economic and Financial Affairs Unit Communication and Interinstitutional Relations code: B-1049. Brussels.
47. PROPERTY TAX REGIMES IN EUROPE, *The Global Urban Economic Dialogue Series*. (2013). United Nations Human Settlements Programme, Nairobi.
48. TAX REFORMS IN EU MEMBER STATES (2014). "European Economy" No 6. Economic and Financial Affairs.

ISSN 2543-7097 / E-ISSN 2544-9478

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Wołowiec T. (2018). Legal and Economic Aspects of Property Taxation in The European Union.
International Journal of Legal Studies, 1(3)2018; 233-280

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