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Legal and Economic Aspects of Property Taxation (selected issues)

Aspekty Prawne i Ekonomiczne Opodatkowania Nieruchomości (wybrane zagadnienia)

Abstract:

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.

Keywords:

Property taxation, subject, object of taxation, *ad valorem* system

Streszczenie:

Opodatkowanie nieruchomości jest stałym elementem systemów podatkowych w krajach UE. Podatki majątkowe stanowią tę grupę danin publicznych, która jest istotnie zróżnicowana pod względem formy i konstrukcji. Brak międzynarodowych standardów, oznacza, że nie istnieje jeden powszechnie akceptowalny stosowany w praktyce system opodatkowania nieruchomości.

Słowa kluczowe:

Opodatkowanie nieruchomości, przedmiot i podmiot opodatkowania, system *ad valorem*

Property as a subject of taxation.

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).

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

Table 1. Types of property (assets) elements according to accounting regulations. Source: own work

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 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.

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).

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

Table 2. Features of real estate. Source: own work.

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 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.

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 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 (Liszewski, Etel, 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 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 provisions 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 deceased 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 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, which is not the case, therefore the criteria of the unity of a taxpayer and tax burden is not coherent (Grządalski 2004, p. 105). 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) (Atkinson 1997, p. 590-606).

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.

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 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:

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, provide 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 (Krajewska 2004, p. 112-113).

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 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.

The legal taxonomy of property taxes

– classification criteria.

“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 proper-

ty. 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 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 consump-

tion 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 2011, p. 2-3).

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.
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. 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 (Bahl 2004).

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

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 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.

Legal dilemmas of the flow logic in property taxes.

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 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 (ERES-ESSEC Education Seminar, Paugam 1999, Johansson A, Heady C, Arnold J., Brys B. and Vartia L 2008).

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). 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 tax on land for construction, which encourages its owners to make it profitable. 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 2009, 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.

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. 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. 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;
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.

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