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## REMARKS ON SOME TAX EXEMPTS IN ANCIENT ROME

In the classical construction of tax we may distinguish three elements: the subject of taxation, the object of taxation, and the base of taxation. From the third element, the base of taxation, we may distinguish reliefs and tax exemptions, according to which some persons activities, or facts are not taxable. In order to simplify the tax system, it is advisable to eliminate most (all) tax reliefs, at the same time reducing proportionally the amount of taxes of benefits which the state gained from abolishing such a relief or exemption<sup>1</sup>. However, finding the golden mean concerning the elimination of reliefs and exemptions and lowering taxes is very difficult. Moreover, lowering taxes is not always motivated by the will to relieve taxpayers who had these reliefs and exemptions. Sometimes, also, incomes to the state treasury are so insufficient that after the abolishing of such reliefs and exemptions the amount of taxes is even higher, e.g. because of bigger financial needs of the state or because of a smaller number of taxpayers. We also encounter similar activities in the area of state treasury and state finances in Ancient Rome. In this article the author will try to classify the tax privileges that existed in Ancient Rome, according to criteria recognized by the author as really existing in the Roman Empire. Moreover, the discussion of each criterion will be provided with examples of reliefs and exemptions, followed by a short analysis. Furthermore, the author will provide a linguistic analysis of given examples, to consider whether some of them we may truly consider as an exemption or privilege, than to as something, that never was subject to taxation.

The application for a tax exemption was one of the most common petitions reported by citizens to officials. Tax exemptions were granted by the state, or, in the area of land taxes – by protectors. Such exemptions were uncertain, because at every moment the patron could lose his power and position, which would mean the end of the granted privileges<sup>2</sup>. Possibly, requests were made so

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<sup>1</sup> Tax privileges were sometimes abolished in Ancient Rome for very trivial reasons and accusations. For instance, Tiberius accused citizens of particular provinces that they kept too much of their wealth in money – SÜTONIUS, *De vita caesarum / The Lives of the Caesars*, III, 49, trans. J.C. ROLFE, London–New York 1914 (cetera: SÜTONIUS).

<sup>2</sup> P. HEATHER, *Upadek Cesarstwa Rzymskiego*, trans. J. SZCZEPAŃSKI, Poznań 2007, p. 165.

often because of the fact that taxes in provinces were collected to the fullest, thus there were frequent petitions of citizens of provinces to provide them with exemptions, especially from abandoned and infertile territories. E. Gibbon, following Strabo and Tacitus<sup>3</sup>, gives an example of a request of the citizens of a small island in the Aegean Sea – Gyaros (Gaur / Gyaur) – who begged for an exemption from one third of the excessively high taxes<sup>4</sup>. Such reliefs were often given as a kind of gratification for men of outstanding merit. When the general base of taxation was high, the budget endured the resulting loss of income more easily. In the new situation, the burden of debt fell on the shoulders of the other taxpayers<sup>5</sup>. Despite the frequent petitions, tax reliefs and tax abolition were granted by emperors to citizens only in exceptional cases, for special achievements. The granting of individual exemptions was connected with various interesting circumstances. There were, for instance, situations where emperors, like Vespasian, commanded the citizens to apply to a particular governor of a province before granting the relief, because he (the emperor) was not able from Rome to decide a case before its deep examination and not knowing the circumstances. For the granting of a relief could be ordered by the emperor or the *praefectus* for the citizens of the province which he commanded<sup>6</sup>. Sometimes there were controversies whether a particular exemption really applied in a particular situation. From 135 A.D. onwards we witness the dispute between Cas-

<sup>3</sup> Strabonis *Geographica*, 10, rec. A. MEINEKE, Lipsiae 1878; TACITUS, *Libri ab excessu divi Augusti*, III, 69; IV, 30; ed. P.K. HUIBREGTSE, vol. I, Groningen 1958 (cetera: TACITUS, *Annales*). In these fragments Strabo and Tacitus indeed mention this small island. However, there is no word about this subjective privilege.

<sup>4</sup> E. GIBBON, *Zmierzch Cesarstwa Rzymskiego*, vol. I, trans. S. KRYŃSKI, Warszawa 1971, p. 132.

<sup>5</sup> P. HEATHER, *op. cit.*, p. 590. The burden could be hard to bear by the other taxpayers, whose situation was getting so hard that the state had to undertake emergency measures and grant them special reliefs (*Codex Theodosianus*, XI, 28, 2, ed. T. MOMMSEN, P.M. MEYER, [in:] *Theodosiani libri XVI cum Constitutionibus Sirmondianis et leges novellae ad Theodosianum pertinentes*, vol. I–II, Berolini 1954 [cetera: CTh] referring to Campania: *Quingenta viginti octo milia quadraginta duo iugera, quae campania provincia iuxta inspectorum relationem et veterum monumenta chartarum in desertis et squalidis locis habere dinoscitur, isdem provincialibus concessimus et chartas superfluae discriptionis cremari censemus*. Cf. S. DILL, *Roman Society in the Last Century of the Western Empire*, London 1905, p. 279). An author of this constitution uses in this text a verb *concedo*, which means ‘to concede, to allow, to grant’ (J. SONDEL, *Słownik łacińsko-polski dla prawników i historyków*, Kraków 1997, p. 187). Therefore, this constitution did not establish a general tax exemption in Campania, but it was a single privilege, granted because of the desertion and neglect of the land. It was better to gain popularity by giving up incomes that were unsure and probably unenforceable than to execute such arrears.

<sup>6</sup> AMMIANUS MARCELLINUS, XIX, 11, 3, trans. J.C. ROLFE, t. I–III, Cambridge Mass.–London 1956–1958; cetera: AMMIANUS MARCELLINUS), an example from the tenure of Anatolius from Berytus, *praefectus Illyriae* from 357 to 360 A.D. He granted tax reliefs to the citizens of this province thanks to financial statements and the belief in them, as a reward for sincerity and honesty of the citizens. An example from the Baetican city of Sabora, applying for an exemption from new taxes – W. ECK, *Provincial Administration and Finance*, [in:] *The Cambridge Ancient History*, vol. XI, *The High Empire, A.D. 70–192*, ed. A.K. BOWMAN, P. GARNSEY, D. RATHBONE, Cambridge 2008, p. 271.

tor, son of Asclepiades, and Heron, supervising the collection of taxes, solved on 12 July 135 before Claudius Apollonius, strategus of the nome *Heracleopolite*. The question was whether the exemption granted to the citizens of Antinopolis only applied to things located inside the city, or wherever, provided they belonged to the citizens of the city. The judgment was unfavorable for citizens, because it ordered that in such circumstances the tax from the citizens should be collected<sup>7</sup>.

The exemptions (over a dozen) found by the author in various sources and elaborations may be classified according to criteria that look logical and coherent. Tax exemptions were granted firstly to particular nations, in connection with their special achievements, or their important history<sup>8</sup>. Thus, the most known exemption, mentioned almost by every author, is the one granted to the Romans living in Italy from the taxes (*tributum*) in 167 B.C. This exemption remained until 6–7 A.D., when Augustus introduced new taxes in order to fill up the new military treasure (*aerarium militare*), designed to provide the army with finances, and to distinguish military expenses from the civil expenses<sup>9</sup>. Tax exemptions for Romans living in Italy were frequently granted and withdrawn. Thus, this exemption, known as *ius Italicum*, as an exemption from land tax (*tributum soli*) and capital tax (*tributum capitis*), was granted by Titus, Vespasian's son<sup>10</sup>. The tax exemption of Italy from the payment of direct taxes was connected with the fact that Italy was not a province, and was not governed by governors<sup>11</sup>. More details about the exemption of Roman citizens from taxes are provided by E. Gibbon, who mentions the exemption granted during the reign of Commodus. At that time, within a few years, through their victories the Romans won the wealth of Syracuse, Carthage, Macedonia and Asia Minor. Thus, it turned out that the sustainable development of the treasury incomes from provinces were enough to cover normal expenses on army, war and state administration, thus the remaining amount of gold and silver was located in

<sup>7</sup> H.F. JOLOWICZ, *Case Law in Roman Egypt*, JSPTL 14, 1937, p. 9.

<sup>8</sup> *Digesta*, L, 15, 1, pr., rec. T. MOMMSEN, [in:] *Corpus Iuris Civilis*, vol. I, <sup>10</sup>Berolini 1906 (cetera: *Dig.*): *Sciendum est esse quasdam colonias iuris Italici, ut est in Syria Phoenice splendidissima Tyriorum colonia, unde mihi origo est, nobilis regionibus, serie saeculorum antiquissima, armipotens, foederis quod cum Romanis percussit tenacissima: huic enim divus Severus et imperator noster ob egregiam in rem publicam imperiumque Romanum insignem fidem ius Italicum dedit.* A general tax privilege – *ius Italicum* – is mentioned here. Its granting was a common practice in periods of prosperity of the Roman Empire, when the amount of money from other incomes was sufficient to cover the expenses.

<sup>9</sup> B. CAMPBELL, *War and Society in Imperial Rome 31 B.C. –284 A.D.*, London 2004, p. 85l.

<sup>10</sup> F. MILLAR, *The Roman Empire and its Neighbours*, London 1967, p. 85. Thus, Caracalla removed all the tax exemptions – CASSIUS DIO COCCEIANUS, *Historia Romana*, LXXVIII, 9, trans. E. CARY, H.B. FOSTER, vol. IX, Cambridge 1927 (cetera: DIO CASSIUS); B. CAMPBELL, *op. cit.*, p. 86.

<sup>11</sup> B. SALWAY, *Cesarstwo rzymskie od Augusta do Dioklecjana*, [in:] *Europa rzymska*, ed. E. BISPHAM, Warszawa 2010, p. 129. During wartime there were situations when taxes were collected in a double amount, in order to satisfy the higher needs of the state and army (TITUS LIVIUS, *Ab urbe condita*, XXIII, 31, 1).

a temple of Saturn and was reserved for unpredicted needs of the state<sup>12</sup>. The final and permanent abolishing of tax privileges of Italy was done by Diocletian, who introduced provincial administration to Italy and decided to impose on its citizens *vectigal* and *caput*<sup>13</sup>. Apart from the exemption of Romans living in Italy described above, we may mention the exemption of Aphrodisians from taxes in 3–2 B.C., because of their loyalty in a war against Labienus<sup>14</sup>. In Capua, all members of the equity class, in the 4<sup>th</sup> century B.C., were exempted, for their service, from an obligation to pay land tax (*tithe*)<sup>15</sup>. Following that, in 193 B.C. M. Valerius Messala sent to the city of Teos (Greece), in the name of the Senate, a letter in which the Senate established this *polis* as holy and inviolable and exempt from taxation<sup>16</sup>. Subsequently, Nero granted Greece an exemption from the obligation to pay taxes – this exemption was announced by Nero during the Isthmian games, as a reward for the Greeks' recognition of the artistic performances of Nero (Nero proclaimed “a freedom of Hellenes”)<sup>17</sup>. Claudius granted an exemption for Cos, a city from which his physician originated<sup>18</sup>. Hadrian granted an exemption for Selinus, where Trajan had died<sup>19</sup>, while Antoninus Pius granted one for Pallantium in Arcadia, because he believed that it was connected with the founding of Rome<sup>20</sup>; Caligula returned to Commagene all the taxes paid by its citizens<sup>21</sup>.

<sup>12</sup> E. GIBBON, *op. cit.*, p. 131.

<sup>13</sup> P. GARNSEY, R. SALLER, *The Roman Empire. Economy, Society and Culture*, Berkeley–Los Angeles 1987, p. 9. Italy supposedly lost its all tax exemptions in 338 A.D. (J.L.E. ORTOLAN, *The History of Roman Law*, trans. I.T. PRICHARD, D. NASMITH, London 1871, p. 175). This was mentioned also by SEXTUS AURELIUS VICTOR, *Liber de caesaribus*, XXXIX, 30–32, rec. F. PICHLMAYR, corr. R. GRUENDEL, Leipzig 1961.

<sup>14</sup> J. RICHARDSON, *The Language of Empire. Rome and the Idea of Empire from the Third Century BC to the Second Century AD*, Cambridge 2008, p. 42; V. ARANGIO-RUIZ, *Rivista di Papirologia Giuridica per l'anno 1910*, BIDR 24, 1911, p. 228–229. According to the excavations in Aphrodisias, in Caria, allies had to constantly defend their immunity from tax collectors. Thus, even the status of a Roman colony did not guarantee fiscal privileges in provinces. That is signified by the epithet *immunis*, added with pride to the names of a few cities possessing this immunity. Cf. A. ZIÓŁKOWSKI, *Historia powszechna. Starożytność*, Warszawa 2009, p. 832–833.

<sup>15</sup> W. IHNE, *Researches into the History of the Roman Constitution with an Appendix upon the Roman Knights*, London 1853, p. 136.

<sup>16</sup> T. COREY BRENNAN, *The Praetorship in the Roman Republic*, vol. I–II, New York 2000, p. 294.

<sup>17</sup> R. DUNCAN-JONES, *Money and government in the Roman Empire*, Cambridge 1998, p. 4; M. JACZYŃSKA, M. PAWLAK, *Starożytny Rzym*, Warszawa 2008, p. 205.

<sup>18</sup> R. DUNCAN-JONES, *op. cit.*, p. 4.

<sup>19</sup> *Ibidem*, p. 4. Cf. TACITUS, *Annales*, XII, 61: **Rettulit dein de immunitate Cois tribuenda multaque super antiquitate eorum memoravit** (Next the emperor proposed to grant immunity from taxation to the people of Cos, and he dwelt much on their antiquity).

<sup>20</sup> PAUSANIAS, *Description of Greece*, VIII, 43, 1–29, trans. W.H.S. JONES, vol. IV, London 1935; cf. R. DUNCAN-JONES, *op. cit.*, p. 4.

<sup>21</sup> SUETONIUS, IV, 16, 3; R. DUNCAN-JONES, *op. cit.*, p. 4.

Subsequently, tax privileges were granted because of some extraordinary occurrences or catastrophes, to help communities affected by such disasters, or to help communities living in extremely difficult conditions. This criterion may be exemplified by the community of the Gordians, whom Caesar helped financially and granted them an exemption for five years from all taxes paid for the state and the imperial treasury<sup>22</sup>. Nero waived taxes for five years for the Arameians, because of an earthquake which had affected them<sup>23</sup>. August granted an exemption for one third of the already small taxes (amounting to around 150 drachmas) to the citizens of the small and rocky island of Garus, located in the Aegean Sea, inhabited by a few fishers<sup>24</sup>. Septimius Severus exempted from taxation many African cities<sup>25</sup>. Because of an extraordinary incident we have some information about the granting of immunity by Claudius to the city of Volubilis and abolishing the arrears to the city of Banas, as well as Mauretania Tingitana, by Caracalla<sup>26</sup>. From the later period of development of the Roman state we have information about Campania, where 60 years after Constantine's death an exemption of 528 048 iugers (around 133 thousands of hectares) from the obligation to pay the taxes for deserts and fallow lands was granted. Campania was affected by desolation resulting from the predatory activities of the administration<sup>27</sup>. In the 5<sup>th</sup> century A.D. incomes from Britannia, Africa Proconsularis, Byzantium, Numidia and Mauretania Sitifensis dramatically decreased or even totally disappeared, because of the loss of territories in favor of invaders. In view of this loss of incomes, the state tried to save a part of them by granting exemptions, in order to relieve some taxpayers, just to have any incomes from them. In the forties of the 4<sup>th</sup> century A.D. the Africans obtained a relief in the form of a special exchange rate amounting to 4 solids for one unit of conversion, instead of 5 solids. Thus, they received a relief of 20%. Because of such drastic loss of incomes, the state tried to gain more incomes from other sources. On the basis of the Constitution from 24 January 440 all the special imperial exemptions and tax reliefs were withdrawn<sup>28</sup>.

<sup>22</sup> TACITUS, *Annales*, II, 47–48.

<sup>23</sup> TACITUS, *Annales*, XII, 58.

<sup>24</sup> E. GIBBON, *The History of the Decline and Fall of the Roman Empire*, vol. I, Glasgow 1875, p. 110. However, the sources quoted here by E. Gibbon are noteworthy. A remark on these sources has been made earlier in an. 4.

<sup>25</sup> *Dig.*, L, 15, 8, 11: *In Africa Carthago, Utica, Leptis Magna a divis Severo et Antonino iuris Italici factae sunt.*

<sup>26</sup> T. KOTULA, *Afryka Północna w starożytności*, Wrocław 1972, p. 394; P. HEATHER, *op. cit.*, p. 288.

<sup>27</sup> E. GIBBON, *Zmierzch Cesarstwa Rzymskiego*, t. II, trans. Z. KIERSZYS, Warszawa 1975, p. 141; *CTh*, XI, 28, 2 – cited in the previous part of this article.

<sup>28</sup> P. HEATHER, *op. cit.*, p. 346; *Liber Legum Novellarum Divi Valentiniani A. 4: Impp. Theodosius et Valentinianus aa. Maximo II. praefecto praetorio. Usu rerum frequenter agnovimus specialibus beneficiis generalem devotionem gravari recidente in reliquos tributorum sarcina, quae singulis quibusque subducitur, Maxime parens karissime atque amantissime. 1. Et ideo inlustris et praecelsa magnitudo tua pragmatici nostri secuta decretum sciat secundum suggestionem suam, manentibus his, quae dudum de removendis specialibus beneficiis censuimus, omnia, quae specialiter contra vetitum impetrata sunt, non valere et functionem publicam*

Tax privileges were also granted to gain popularity with the people. Such an activity was undertaken by Caesar during the war with Pompey Magnus. To gain popularity and fame, he exempted from rent the people whose rent in one year was not higher than five hundred drachmas<sup>29</sup>.

Besides the exemptions, reliefs and privileges granted to particular groups of people, they were granted also to members of particular professions and occupations, as individual exemptions. To exemplify such exemptions we may mention the individual exemptions granted by Augustus to his physicians<sup>30</sup>. Also, minor traders did not pay taxes during the Dominate. However, they were bound permanently to their occupation and obligatorily associated in councils<sup>31</sup>. Major merchants had to pay a new tax, however there is no information in the sources about its rate<sup>32</sup>. There also existed an exemption from *vectigalia* for the people who served in the palace<sup>33</sup>. Furthermore, we may note an exemption from liturgies, granted by

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*aequaliter ab omnibus oportere cognosci, ut et quod in commune statutum salubriter fuit esse perseveret nec denuo in haec ambitus redeat, quae iterata praeceptione removimus. Dat. VIII. kal. feb. Romae, Valentiniano a. V. et Anatolio vc. cons.* Emperors understood that special privileges in hard times, when other taxpayers had to pay higher taxes, to guarantee the financial security of the country, might result in revolts – especially when the privileges were granted as a result of corruption. Following that, on the basis of savings, on 14 March 441 lands rented from the imperial treasury on yearly periods along with tax privileges had to be valued according to normal rates, like church lands. Moreover, the officials were again made responsible for building and maintaining roads, production of arms, repairing of walls, and supplies of *annona* and other public works. (P. HEATHER, *op. cit.*, p. 346; *Liber Legum Novellarum Divi Valentiniani A. 10*: [...] *Repetita clementiae nostrae praeceptione sancimus, ut antiquatis omnibus privilegiis, quae vel dignitatibus delata fuerant vel diversae militiae collegia meruerunt aut nomine venerandae religionis obtentum est, omnis ubique census, qui non personarum est, sed agrorum, ad universa munia a nona dumtaxat indictione, ut supra definivimus, absque ulla discretione cogatur. In qua parte quo quisque honoratior aut opulentior est, eo alacriorem publicis necessitatibus animum debet, quarum sibi procuracionem magis intellegit profuturam, Maxime parens karissime atque amantissime [...].* Constitutions limiting tax reliefs and exemptions, introduced in the forties of the 5<sup>th</sup> century A.D., were, in a time of external threat, to affect only the major landlords (M. PAWLAK, *Aecjusz i barbarzyńcy*, Kraków 2009, p. 303–304).

<sup>29</sup> DIO CASSIUS, XLII, 51.

<sup>30</sup> N. HARRIS, *History of Ancient Rome*, London, 2001, p. 129.

<sup>31</sup> This exemption also applied to artisans – „*corpora artificium*” (*Dig.*, L, 6, 6, 12–13: [...] *immunitas tribuitur [...] immunitas datur, [...] privilegiis [...] concessa sunt*; B. ŁAPICKI, *Poglądy prawne niewolników i proletariuszy rzymskich*, Łódź 1955, p. 193; T. ŁOPOSZKO, *Zarys dziejów społecznych Cesarstwa Rzymskiego*, Lublin 1989, p. 177). Emperors spared the lives of *artifici* who could be useful in industry – B. ŁAPICKI, *op. cit.*, p. 193; *Dig.*, XLVIII, 19, 31, pr.: *Ad bestias damnatos favore populi praeses dimittere non debet: sed si eius roboris vel artificii sint, ut digne populo Romano exhiberi possint, principem consulere debet*). Also, in *Scriptores Historiae Augustae, Vita Alexandri Severi*, 22 (ed. *Scriptores Historiae Augustae*, trans. D. MAGIE, vol. II, London 1960) there is an excerpt about tax privileges for traders: *negotiatoribus, ut Romam volentes concurrerent, maximam immunitatem dedit*.

<sup>32</sup> T. ŁOPOSZKO, *op. cit.*, p. 177.

<sup>33</sup> *CTh*, XI, 12, 3: *Omnium rerum ac personarum, quae privatam degunt vitam, in publicis functionibus aequa debet esse inspectio. Hoc ideo dicimus, quia nonnulli privatorum elicatas suffragio proferunt sanctiones, quibus vectigalia vel cetera eiusmodi, quae inferri fisco moris est, sibi adserant esse concessa. Hoc si quando militibus nostris hisse, qui in palatio nostro degunt, praestamus adprobantibus se sacramentis militaribus adtineri, quod*

Theodosius and Valentinian to individual officials<sup>34</sup>. Next, Vespasian, in order to support science and art, granted special privileges and exemptions, including tax privileges for some teachers and scientists<sup>35</sup>. Moreover, for example *agents in rebus* were exempted from the obligation to supply recruits – *aurum tironicum*<sup>36</sup>, and from the obligation to do liturgies for the state<sup>37</sup>. We have examples of decreasing tax burdens or even abolishing tax debts connected to land taxes at the beginning of the 5<sup>th</sup> century A.D.<sup>38</sup> Emperors, granting tax exemptions to farmers, who in the 3<sup>rd</sup> and 4<sup>th</sup> century were ruined, benefited from the people's growing devotion to the rulers, in return for abolishing debts or granting exemptions from taxes – which

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*concessimus firmum sit adque robustum; ceterum si quis privatorum eiusmodi rescriptione nitatur, cassa eadem sit. Vectigalium enim non parva functio est, quae debet ab omnibus, qui negotiationis seu transferendarum mercium habent curam, aequa ratione dependi.* Again the verb *concedo* was used as a significance of the activity of granting tax exemption.

<sup>34</sup> C., I, 51, 11 (*ab omni indictionis ... prorsus immunes esse praecipimus*); such exemptions were granted and revoked by individual emperors, cf. for instance the *Constitutio* of Constantine from 329, eliminating all the exemptions from liturgies performed in favor of the cities – *CJ*, X, 32, 19. However, in the constitution from 364 the emperors Valentinian and Valens decided that, if it was not necessary, decurions did not have to perform liturgies outside the borders of the cities where they lived – *CJ*, X, 32, 25. In this constitution, there is no word signifying a special privilege or exemption, as mentioned before, especially the word *concesso*. It appears that in this constitution the emperors only confirmed an existing rule, without saying that it was some sign of grace. In the next year, in the constitution from 365, the same emperors ordered that, as a rule, all decurions were obliged to perform municipal liturgies – *CJ*, X, 32, 28. The high amount of space devoted to exemptions in imperial constitutions indicates that there were common controversies concerning the performance of obligations in favor of the state. All of the *Code of Justinian*, XLVIII, 10 is devoted to describing exemptions from liturgies. Thus, this title should be the basis for a researcher wanting to analyse in more detail the liturgies and exemptions from these obligations in favour of the cities. It is significant for the evaluation of the fiscal policy of the emperors from the period of the Dominate onwards that most of the reliefs mentioned there were granted in the second half of the 4<sup>th</sup> century A.D.

<sup>35</sup> C. PELLING, *The Triumvirate Period*, [in:] *The Cambridge Ancient History*, vol. X, ed. A.K. BOWMAN, E. CHAMPLIN, A. LINTOTT, Cambridge 1996, p. 31.

<sup>36</sup> *CTh*, VI, 27, 13.

<sup>37</sup> *CJ*, X, 32, 67.

<sup>38</sup> *CTh*, XI, 28, 4: *Ab omni intra Italiam iugatione, quam munere annonariae functionis **absolvimus**, etiam glebalem pensionem iubet serenitas nostra removeri.* The verb *absolvo* ('to free from something, to release', – K. KUMANIECKI, *Słownik łacińsko-polski*, Warszawa 1984, p. 4; J. SONDEL, *op. cit.*, p. 305) indicates what this privilege really meant – it was an act of giving fiscal freedom from a tax. *CTh*, XI, 28, 12: *Praeter censuales functiones Campania, quam et vetustatis gravior onerat adscriptio et post hostium vastavit incursio, peraequatis territoriis nonam partem tantummodo praeteriti assis publicarum toleret functionum. Pice-num vero et Tusciam suburbicarias regiones septimam tributorum ad supputationem professionis antiquae per universos titulos iubemus agnoscere, ut **reciso** antiqui census onere is tantum modus, quem superius comprehendimus, chartis publicis inseratur, hac condicione, ut omnis super desertorum nomine querella in posterum conquiescat.* *CTh*, XI, 28, 13: (...) *De his vero, quae edictis pendentibus nondum sunt certis adsignata personis, rectores provinciarum decernimus providere, ut manentibus remediis, quae fides supra dicta adtribuit, idoneis collocentur.* In this constitutional a verb *recido* is used in meaning 'to cancel (taxes)', not exactly to grant privileges, but to cancel original taxes – *reciso antiqui census onere*; S. DILL, *op. cit.*, p. 260.

would not have been paid anyway<sup>39</sup>. Justinian in the Novel CXLIV also granted some tax privileges to the colons<sup>40</sup>.

Another category of tax privileges are state (class) privileges, granted to the Church for instance<sup>41</sup>. The Church was exempted from taxes by Constantine the Great<sup>42</sup>. Moreover, Constantine granted the Church a permanent subsidy<sup>43</sup>. These payments and privileges were revoked by Julian the Apostate<sup>44</sup>. Furthermore, tax

<sup>39</sup> E. GIBBON, *Zmierzch...*, vol. II, p. 141. For example, an exemption granted to farmers by Constantine: SEXTUS AURELIUS VICTOR, *De caesaribus*, XLI, 19: *Remotae olei frumentique adventiciae praebitiones, quibus Tripolis ac Nicaea acerbius angebantur*. In this literary source the verb *removeo* – ‘to remove, to repeal something’ – is used. However, because of the nature of this source (literary), the author of this article is careful not to draw any general conclusions from this source about the nature of the privileges.

<sup>40</sup> *Iustiniani Novellae*, CXLIV. According to this novel, colons had a right to dispose of their land *inter vivos* and *mortis causa*: (...) *Excipimus autem a praesenti lege colonos qui Samaritarum partes sequuntur, non ipsorum gratia, sed propter condiciones praediorum quae ab iis coluntur et propter tributa et redditus qui inde fisco inferuntur, cum praesertim ex rusticitate errent. His enim permittimus heredes et legatarios scribere et ascendentes et descendentes suos et cognatos ex latere, quamvis Samaritarum errore teneantur, ut tamen agros colant, cum uberius inde proventus ad possessores praediorum et per eos ad fiscum deferatur. Sed etiam sine testamentis praedicti alter ad alterius hereditatem venient propter eandem causam: quandoquidem etsi nemo horum inveniatur, dominum praedii, in quo colonus erat qui defunctus est, quae ab hoc relicta sunt accipere volumus, et fisci locum eum obtinere, quippe qui etiam publicis tributis pro illo satisfaciatur (...)*, cf. A.M. RABELLO, *The Samaritans in Justinian's Corpus Iuris Civilis*, ILR 31, 1997, p. 739. The leaving of lands by colons and leaving the land lying fallow for a long period may cause a need to reduce property taxes. If there were no heirs, lands of colons were passed to landlords, as their property. They acted in the name of the *fisc*, because they collected for the *fisc* the land taxes paid by colons. The use of the verb *excipio* (‘to make an exception’) shows that when some constitutions were exceptions from the general rule, thus something – a thing, a person or an activity – was generally taxable, but in some exceptional situations – free of fiscal duties.

<sup>41</sup> N. HARRIS, *op. cit.*, p. 157.

<sup>42</sup> *The Cambridge Economic History of the Greco-Roman World*, ed. W. SCHEIDEL, I. MORRIS, R.P. SALLER Cambridge 2008, p. 768; A. LISIECKI, *Konstantyn Wielki*, Poznań 1913, p. 125; for instance *CTh*, XVI, 2, 10: *Ut ecclesiarum coetus concursu populorum ingentium frequentetur, clericis ac iuvenibus praebetur immunitas repellaturque ab his exactio munerum sordidorum. Negotiatorum dispendiis minime obligentur, cum certum sit quaestus, quos ex tabernaculis adque ergasteriis colligunt, pauperibus profuturos. Ab hominibus etiam eorum, qui mercimoniis student, cuncta dispendia... esse sancimus. Parangariarum quoque parili modo cesset exactio. Quod et coniugibus et liberis eorum et ministeriis, maribus pariter ac feminis, indulgemus, quos a censibus etiam iubemus perseverare immunes. Cf. SOZOMENUS, *Kirchengeschichte*, I, 9, ed. J. BIDEZ, G.Ch. HANSEN, Berlin 1995 (cetera: SOZOMENUS). These exemptions were extended to Jewish clergy; *CTh*, XVI, 8, 2: *Qui devotione tota synagogis iudaeorum patriarchis vel presbyteris se dederunt et in memorata secta degentes legi ipsi praesident, immunes ab omnibus tam personalibus quam civilibus muneribus perseverent, ita ut illi, qui iam forsitan decuriones sunt, nequaquam ad prosecutiones aliquas destinentur, cum oporteat istiusmodi homines a locis in quibus sunt nulla compelli ratione discedere. Hi autem, qui minime curiales sunt, perpetua decurionatus immunitate potiantur. praebetur immunitas* means ‘provided, granted immunes’; A. CAMERON, *The Reign of Constantine, A.D. 306–337*, [in:] *The Cambridge Ancient History*, vol. XII, *The Crisis of Empire A.D. 193–337*, ed. A.K. BOWMAN, P. GARNSEY, A. CAMERON, Cambridge 2008, p. 107.*

<sup>43</sup> SOZOMENUS, I, 8.

<sup>44</sup> SOZOMENUS, V, 5; A. LISIECKI, *op. cit.*, p. 125.

privileges were granted to war veterans<sup>45</sup>. However, probably, the most privileged group were the senators<sup>46</sup>. They were exempt from the obligation to pay municipal taxes, *aurum coronarium*<sup>47</sup> and *aurum oblativum*. They were also exempt from *onus metali* and from *collatio ad opera publica*<sup>48</sup>. The granting of these fiscal and other privileges for the wealthiest classes is evidence of political self-serving of the rulers. Taxes were not imposed according to the financial possibilities of the individual social layers, but according to political preferences, by which the upper classes paid small taxes, if any at all<sup>49</sup>. On the other hand, attempts to abolish the privileges of the strongest social classes were very risky and could mean signing a death sentence upon oneself, as it happened in the case of Pertinax<sup>50</sup>.

As the last criterion herein, we shall mention an exemption granted not for individual persons, but things. Thus, an exemption from taxes applied, for instance, to goods for the army<sup>51</sup>. *Res exercitui paratas praestationi vectigalium subici non placuit* (are not subject to taxation). This rule shows something clear as far as taxation is concerned – some things are taxable and others are not. Thus, it may be seen not as a privilege or exemption, but as a normal rule, by which something is not subject to taxation. It depends on the theory of tax law – either we will consider it a general rule that everything is taxable and only when a law says that something is not taxable, then it is an exemption or a privilege, or we will state that something is subject to taxation only when legal acts clearly impose taxes. This excerpt confirms that in Roman law everything was generally subject to taxation, unless it was ordered to “turn off” taxation in relation to particular territories, people, occupations, activities or things.

Apart from the above classification of exemptions according to types of subjects endowed with privileges, we may associate some exemptions with aims for

<sup>45</sup> *CTh*, VII, 20, 2. An exemption granted by Constantine in 320. Cf. B. CAMPBELL, *op. cit.*, p. 103. The expression *indulgentia habere* means here ‘to have a sign of grace, goodness, kindness’. Later, in the same excerpt, Constantine did not use any special word meaning ‘privilege’ or ‘exemption’, only saying what shall not be done in relation to veterans – i.e. publicans, who were accustomed to extort exorbitant tax payments, should be removed from the aforesaid veterans.

<sup>46</sup> Besides the strictly tax-related privileges listed here, senators could not be tortured or judged by tribunals consisting of five judges chosen in balloting.

<sup>47</sup> According to the constitution of Julian from 362, a relief in payment of *aurum coronarium* was also to be granted to other citizens, and imposing this tax was reserved only for the emperor (*CTh*, XII, 13, 1).

<sup>48</sup> G. ALFÖLDY, *Historia społeczna Starożytnego Rzymu*, Poznań 2003, p. 253–254; T. ŁOPOSZKO, *op. cit.*, p. 152. In the case of senators there were fundamental differences in relation to imposing the obligations of decurions on senatorial children born before their fathers became senators. According to the constitution of emperor Leo I, these children were also exempt from curial obligations in relation to the community, despite the fact that they were born before the social promotion of their fathers. (*CJ*, X, 32, 63). This privilege was not given to descendants of the persons who became *advocatus fisci* (*CJ*, X, 32, 67) and to descendants of *comes sacrarum largitionum* or *comes rei privatae* (*CJ*, X, 32, 64; X, 32, 66).

<sup>49</sup> R. DUNCAN-JONES, *op. cit.*, p. 4.

<sup>50</sup> C. PARAIN, *Marek Aureliusz*, trans. J. ROGOZIŃSKI, Warszawa 1962, p. 215–216.

<sup>51</sup> *Dig.*, XXXIX, 4, 9, 7.

which they were granted. Most of the exemptions mentioned above have a primary aim to favor some group of people. It may result, as in the case of the Church and senators, from political reckoning, or from the ruler noticing the need to help people living in some region, or perhaps people of some occupations. A vital cause due to which some exemptions were granted was the need to stimulate economic growth, as for instance in the case of exemptions from land taxes for individuals deciding to farm on wastelands. After some time, they could pay normal taxes. Thanks to that, the number of taxpayers grew. Alternatively, the existing taxpayers paid higher taxes<sup>52</sup>.

On the basis of the sources analyzed by the author we arrive at the conclusion that most reliefs were granted in periods of stabilization and restoration of the state, therefore when the situation of state finances allowed that. In the literature touching on issues of tax privileges of Ancient Rome, attention is also paid to the view that exemptions (*immunitas*) listed in the *Theodosian Code* should not be connected with those from the period before Diocletian<sup>53</sup>. With this conclusion, H.A. Sanders has in his mind the exemption from the obligation to accommodate state officials, the exemption from the need of payment to escape this accommodation as well as the exemption from the *militia* obligation (providing recruits), and finally, the exemption of the praetor from the obligation to organize games and tournaments. These exemptions should not be linked with *immunitas lignandi et aquandi* and with *immunis*, as they were separate from *beneficiarius*<sup>54</sup>. The exemptions, reliefs and other privileges were some of the factors in the formation of financial policy by Roman emperors. On the one hand, it was possible to charge the people with higher taxes, and on the other hand, in order to relieve the people and to diminish

<sup>52</sup> Here we may give the example of Pertinax, who granted a ten-year long relief in taxes to individuals farming on wastelands in Italy and in the provinces. (HERODIANUS, *Ab excessu D. Marci libri VIII*, II, 4, ed. K. STAVENHAGEN, Lipsiae 1922; B. CAMPBELL, *The Severan Dynasty* [in: *The Cambridge Ancient History*, vol. XII, p. 1).

<sup>53</sup> *Roman historical sources and institutions*, ed. H.A. SANDERS, London 1904, p. 318.

<sup>54</sup> H.A. Sanders mentioned the following sources (*ibidem*, p. 318): *CTh*, VI, 23, 4: (...) *His addimus, ut, cum optatam quietam acceperint et inter senatores coeperint numerari, honore curiae sine aliqua functione laetentur immunitatisque gaudio plena dignitatis (lae)titia potiantur, nec praetoriano nomine pulsandi nec glebali onere praegravan[di], sed ut dignitatem solam habeant ex senatu (...)*; XIII, 3, 10: *Medicis et magistris urbis Romae sciant omnes immunitatem esse concessam, ita ut etiam uxores eorum ab omni inquietudine tribuantur immunes et a ceteris oneribus publicis vacent, eosdemque ad militiam minime comprehendi placeat, sed nec hospites militares recipiant*; VI, 23, 2: *IDEM. AA. VENANTIO P(RAEFECTO) P(RAETORIO). Unusquisque decurio vel silentiar(ius,) sive post hanc militiam honoratam quietem elegisse fuerit adprobatus sive ad superiorem gradum successu meliore transcenderit, nihil, quod honoratis pro rerum necessitate iniungitur, cogatur exsolvere; sed a tironum et equorum praestatione habeantur immunes, nudam conlationem quae plerumque poscitur solvant, nihil his ulla potestas iniungat aut necessitas inponat. DAT. VII ID. MART. RAV(ENNA) ASCL-EPIODOTO ET MARINIANO CONSS; VI, 26, 13: IDEM AA. ET THEodosius A. Sicut iam pridem a praetura imm[un]itatem tribuimus his, quos post emeritam in armis militiam ad honorem ducatus nostrae serenitatis provexit iudicium, ita nostrorum scriniorum proximi etiam deposita militia praeturae immunitate potiantur. DAT. VIII KAL. FEB. CONST(ANTINO)P(OLI) HONORIO VII ET THEOD(OSIO) II AA. CONSS.*

the negative effect on the image of the ruler, it was possible to grant reliefs, exemptions and other privileges to certain people living in the Empire. Another way that could be chosen by emperors was to impose taxes at the same, low level (*indicta tributorum levia*). It was the domain of few emperors, including Julian<sup>55</sup>.

It is impossible to assess unambiguously the tax privileges granted in Ancient Rome. Exemptions and reliefs, irrespective of the reasons for which they were granted, always brought popularity for the ruler, also stimulating the economy<sup>56</sup>. Probably, many emperors had in mind this propagandist aspect. They also probably thought about what would have happened if such exemption had not been granted, in view of the circumstances of the granting of a given privilege, like a massive natural disaster<sup>57</sup>. However, in many cases economic problems were only an excuse to grant more privileges to an individual social group<sup>58</sup>. Sometimes, the granting of an exemption or relief for one group was connected with an increase of taxes and imposing of additional taxes, resulting in superindictions in relation to other citizens<sup>59</sup>. Inequality of tax burdens, and at the same time inequality of reliefs and exemptions granted at different levels for different parts of Empire could be the result of a different development of individual provinces. It is not surprising that the development of individual provinces was irregular and varied. Economic

<sup>55</sup> AMMIANUS MARCELLINUS, XXV, 4, 15. In another passage Ammianus describes Julian in the following way:

*To conclude, we know that [Julian] to the very end of his reign, and his life, he observed this rule profitably, not to remit arrears of tribute (tributariae rei reliqua) by so-called "indulgencies" (indulgentiae). For he had learned that by so doing he would somewhat better the condition of the rich, since it is generally known that poor people at the very beginning of the tax-levying are forced to pay in full without easement (AMMIANUS MARCELLINUS, XVI, 5, 15, vol. I, p. 221, 223). Julian also lowered the taxes in Gallia (AMMIANUS MARCELLINUS, XVI, 5, 14). Julian undertook other activities as well, which indicates that lowering the taxes and introducing fairer exemptions were elements of a consistent policy. He limited the spending on administration by reducing the number of members of the judiciary staff; he also reorganized the postal service by disposing of it where there was no need to keep it. Moreover, he improved the system of providing supplies for the army, strengthened the discipline and introduced systematic, regular payments of soldier's pay; cf. A. BERNARDI, *The economic problems of the Roman Empire at the time of its decline*, SDHI 31,1965, p. 155–156.*

<sup>56</sup> Emperor Gratian, for instance, granted a general exemption of all the tax debts in 367 because of his assumption of power – A. BERNARDI, *op. cit.*, p. 151. Granting of tax reliefs and exemptions, public works and organization of games and fests in Ancient Rome is very similar to the activities undertaken by contemporary governments. However, sometimes, like in the case of Caligula, excessive exemptions strained the finances of the state too much. (P. MATYSZAK, *Synowie Cezara. Dynastia julijsko-klaudyjska*, trans. J. MATYS, Warszawa 2008, p. 178).

<sup>57</sup> An interesting technique, and even funny for contemporary researches, was used by Justinian. He was different from his antecessors, because he practically never granted tax exemptions and did not abolish tax arrears. As a proof of his „indulgency”, he exempted from taxation territories lost in favor of his enemies. (E. GIBBON, *The History...*, vol. III, Glasgow 1879, p. 44).

<sup>58</sup> A. BERNARDI, *op. cit.*, p. 151. A. Bernardi bases this conclusion on the constitution of Arcadius and Honorius from 396, in which are mentioned *calidae artes* of fiscal debtors – *CTh*, XI, 36, 32.

<sup>59</sup> A. BERNARDI, *op. cit.*, p. 152.

booms were experienced mainly by coastal areas. The situation of the semi-arid territories of Syria and Africa or the mountainous areas of Europe and Asia Minor was the worst. Huge areas of the state were underdeveloped economically throughout the whole period of the magnificence of the Empire<sup>60</sup>. Thus, in view of the short analysis of tax reliefs and exemptions given in this article, we may judge as premature and too obvious the conclusion of A. Bernardi, according to which the greater the needs and emphasis on tax exploitation from the state were, the greater the requests from the privileged groups, the so called *munera sordida*, to receive tax reliefs. The conclusion of this author, according to which the increase of the privileged groups also caused the increase of people exploited by the state<sup>61</sup>, is too obvious and thus in need of challenging. Mainstream in the area of fiscal policy of Roman emperors in the period of the Dominate is the assumption that the fall of the Empire resulted from a wrong economic policy. This led to the ruin of imperial finances, and, consequently, to the fall of the state. If so, then, according to some researchers, the reliefs and exemptions were granted in a wrong way, privileging the wealthiest and the strongest classes of the community, while all the burden of maintaining the country was placed on the shoulders of the weakest classes. Perhaps, apart from the bad management policy, we should also take into consideration the social movements, changes in the Roman society, and the increase of the power of the Empire's neighbors. The simple calculation that the Roman state fell down because it did not have the money to maintain such a big organism – needing a big enough army, administration and efficient judiciary system – is inappropriate<sup>62</sup>. Besides deficiencies in state cash, the causes of the degeneration of the state were more complicated. Therefore, many of the reliefs granted in the period of the weakness of the Roman state also had their justification, even political. The controversies presented in this article, relating to the ambiguity of classification and the aims of granting of privileges, indicate that individual tax privileges should be viewed differently under the legal aspect and differently under the economic aspect. Further research on individual tax privileges is necessary. It may result in a complex elaboration of the finances of the Roman Empire – both their shape and their legal regulation.

A linguistic analysis of the constitution given as a confirmation of our thesis proves that there were a few kinds of fiscal privileges. First of all, some constitutions listed general exemptions, where we find the verb *concedo* – ‘to renounce something, to refrain from something’. It may be found when the emperor decides to grant a special right to particular citizens. A very wide fiscal privilege, simply called *ius italicum*, denotes a privilege granted to a particular territory. It is con-

<sup>60</sup> T. ŁOPOSZKO, *op. cit.*, p. 10.

<sup>61</sup> A. BERNARDI, *op. cit.*, p. 154.

<sup>62</sup> *Ibidem*, p. 169–170.

nected with the verb *do, dare* – ‘to give something’<sup>63</sup>, thus the translation of this privilege is *to give ius Italicum*. The use of verb ‘to give’ confirms that the emperor granted a privilege that already existed in another territory, or had been given to another group of people. Besides that, emperors granted new, exceptional, unique privileges, and then they used the verb *concedo*, to highlight its new type. Immunities were given (*immunitas datur*) and privileges (meaning the renouncing of some incomes) were granted (*privilegiis concessa sunt*). Moreover, in some constitutions cited here we may read that something was not subject to taxation. Thus, in my opinion, such a constitution does not speak about a privilege, but it only confirms a general, already existing rule. It did not create any new legal position of a person, activity, occupation or thing. The emperor only confirmed in controversial cases the right not to be taxed. However, in most situations, we may read about giving / granting an immunity from taxes. Such a constitution without doubt should be perceived as a sign of the ruler’s grace.

**Abstract.** The author tries to classify the tax privileges that existed in Ancient Rome. He gives a few examples of reliefs and exemptions, and provides their short legal and lexical analyses. Finally, he discusses whether some of them may be truly considered as exemptions or privileges.

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<sup>63</sup> K. KUMANIECKI, *op. cit.*, p. 171; J. SONDEL, *op. cit.*, p. 305.