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THE INHERENTLY (UN)JUST REAL PROPERTY TAX

NIEODŁĄCZNIENIE)SPRAWIEDLIWY PODATEK OD NIERUCHOMOŚCI

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Abstract: The aim of this paper is to research, analyse and comparatively assess the real property tax and its Aristotelian (in)justice in various jurisdictions based on the stated quartet of hypotheses. Considering the high focus of jurisdictions on both sides of the Atlantic on human rights and democracy, it is highly relevant to pose the question centred around the hypotheses that (i) real property taxation, (ii) determination of basis, (iii) calculation and rate and (iv) use of proceeds of real property tax are (in)compatible with our perception of justice as founded by Aristotle. Various jurisdictions are analysed, while particular attention given to the Czech Republic jurisdiction case study. The research allows to enhance the understanding and appreciation of the real property tax system and offers preliminary suggestions and recommendations for its improvement in order to make it an effective, efficient and just fiscal tool matching the post-modern global society.

Keywords: real property tax, justice, basis, rate, calculation.

Streszczenie: Celem artykułu jest zbadanie, analiza i porównawcza ocena podatku od nieruchomości i jego arystotelesowskiego wymiaru sprawiedliwości w różnych jurysdykcjach w oparciu o podany kwartet hipotez. Biorąc pod uwagę wysoki nacisk jurysdykcji po obu stronach Atlantyku na prawa człowieka i demokrację, bardzo istotne jest postawienie pytania skupionego wokół hipotez, że (i) opodatkowanie nieruchomości, (ii) określenie podstawy, (iii) obliczenie i stopa oraz (iv) wykorzystanie wpływów z podatku od nieruchomości jest (nie)zgodne z naszym postrzeganiem sprawiedliwości według Arystotelesa. Analizowane są różne jurysdykcje, przy czym szczególną uwagę zwraca się na studium przypadku dotyczące jurysdykcji Republiki Czeskiej. Badanie pozwala na lepsze zrozumienie i docenienie systemu podatku od nieruchomości i oferuje wstępne sugestie i zalecenia dotyczące jego ulepszenia, aby uczynić go skutecznym, wydajnym i sprawiedliwym narzędziem fiskalnym, dopasowanym do postmodernistycznego społeczeństwa globalnego.

Słowa kluczowe: podatek od nieruchomości, sprawiedliwość, podstawa opodatkowania, stawka podatku, obliczanie.

Quae Caesaris Caesari, quae Dei Deo.

Mk 12,17

1. Introduction

Almost ten thousand years ago, the philosophical, ethical and legal concept of justice and practical and pragmatism concept of ownership emerged. Indeed, Aristotle famously developed the understanding of various shades of justice while immovable assets, i.e. real estate including land and buildings, have become most valuable assets and subject matters par excellence of *in rem* rights as opposed to *in personam* right. The most important *in rem* right, the right of ownership, has become an instrument of the monopolistic dominance of the owner of the most valuable assets and potential sources of public income via taxation. This needs to be emphasized, especially in the context of current assets qualification [Kasperowicz 2016] and modern taxation trends in the global environment [Żukowska 2016].

Currently, real property tax is perceived as a stable and periodical (annual) source of revenue while considering among else a state with a well-developed fiscal system, including real property tax. Indeed, real property tax had already existed millenniums before Aristotle. And real property tax has kept being employed for millenniums thereafter, throughout today.

The dialectic observation of the omnipresent real property tax and its diametrically different regimes, along with the discussions going to its roots, underline the usefulness and appropriateness to pose questions and then go in depth while scrutinizing the ultimate right and wrong reasoning, i.e. Aristotle's philosophical logic of legal thinking, related to the quartet of set hypotheses. Namely, are (i) real property taxation, (ii) the determination of basis, (iii) a calculation and rate and (iv) the use of the proceeds of real property tax (in)compatible with our perception of justice as founded by Aristotle and shared until today by our civilization?

Comparatively, various jurisdictions, both past and current, are to be analysed, while particular attention is given to the case study of the Czech Republic jurisdiction. Therefore, the aim of this paper is to research, analyse and comparatively assess the real property tax and it's (in)justice in various jurisdictions, especially the Czech jurisdiction, based on the stated quartet of hypotheses. The objective of this paper is to bring a new light in this arena and enrich the ongoing discussion, not only by legal, economic and political arguments about the real property tax, but as well the transposition of the philosophical thoughts centred around the ephemeral concept of justice, and to answer the question whether real property tax has its own place in the current tax systems.

In sum, the multidisciplinary research of prima and secondary data, along with the Czech case, yields interesting information which can be processed using description, comparison and meta-analysis and offers a platform for Socratic questioning. The resulting information is to be critically discussed; its foundations commented on in order to go above and beyond dry statistical numbers of a quantitative nature to dynamic information of a qualitative nature bringing new lights and perspectives. The ultimate goal is to holistically address the aim and quartet of hypotheses while incorporating the concept of „justice.” This leads to the recommendations and suggestions for the increase of effectiveness, efficiency and especially fairness of the real property tax in the perception of all stakeholders.

2. Literature review

Aristotle was one of the greatest scientists in western history and his conception of justice has helped shape the law, economics and politics of jurisdictions following both the continental law and the common law traditions [Severini 2018]. Indeed, Aristotle was a materialist who lived in the 4th century B.C. and invented philosophical and ethical logic [Berryman 2018] and the systematic study of right and wrong reasoning [Engle 2008]. He presented the notoriously challenging statement that natural justice is changeable, which must be understood in the context that justice belongs to the polis, which is a community of roughly equal persons who are governed by law [Koritansky 2018]. Consequently, he established the famous distinction between the distributive (geometrical) justice and corrective (arithmetic justice) and posed the eternal question about how far should society go in permitting differentiation (not) according to merit [Ambrosi 2007].

Although the real property tax, i.e. the tax on land and buildings or millage tax, is an integral part of basically each and every legal system following either the continental law or the common law tradition [Carlson 2005], it is definitely not an invention of the modern era [Janosikova 2006; Janosikova 2014]. Indeed, property tax as a tax on (any type of) property has existed, basically, without any interruption from 6,000 B.C. until today [Kincl et al. 1995]. Hence, current real property tax is a periodic tax on „not movable” property which is classified as a property tax pursuant to the modern international methodology of the classification of taxes [Formanova et al. 2015].

Indeed, real property tax exists in the majority of current jurisdictions but hardly can there be found two jurisdictions with the same regime regarding the real estate property tax with the same objectives and impacts [Williford 1994] pursuant to financial analysis [Ciechan-Kujawa, Goldmann 2016]. It is perceived as a stable, not easily to be evaded and annually re-occurring tax with highly similar proceeds going typically to finance public services at the local level [Vidakovic et al. 2016]. It is a tax imposed on land and/or buildings while considering either their fair market value or their profitability potential or their value set by a bureaucratically

pre-set table. For its calculation, local coefficients, as well as flat, progressive or even regressive rates are used, going from 0% to 10% [Oates, Fischel 2016]. Large differences in applicable real property tax systems are due to a set of factors, to which belongs the historical evolution, national particularities, and the perception of justice, which can be inherently subjective and dynamically changing upon circumstances [Janosikova, Mrkyvka 2016].

3. The (un)just real property taxation

The more than 8 000 years long of uninterrupted history of property taxation is documented by records taking various forms, including ancient clay tablets and medieval long survey books. For millenniums, questions about the quartet of set hypotheses are subject to the discussions on fiscal policies and legislation. The first of them goes to its very existence. Is it necessary and just to have a real property tax?

Perhaps the first information about that covers the Sumerian *bala* method used by the Ur dynasty in Mesopotamia, especially in the ancient city-state Lagash, near the rivers Tigris and Euphrates [Carlson 2005]. The word *bala* means exchange and this tax was imposed in order to collect goods, typically agricultural or craft products, such as livestock, grain, pottery, etc. This tax was universal and basically all individuals were subject to it [Bodley 2011], i.e. everybody had to contribute to the state budget by paying “his” *bala*. Its very nature and conceptual foundations could be perceived as partially at the intersection of the current property and income tax, nevertheless the ultimate target for imposition was not labour but tangible assets, both movable (personal property) and immovable (real property).

In the following millenniums, property tax was used basically by all ancient empires, including Egypt, Babylon, Persia and China. The legitimation, foundation and justification of the property tax was two-fold. Firstly, the King or Pharaoh was perceived as a living God and an inherent member of the local divinity and hence his will was the „law” without any further ado and any discussion on this topic would be considered heretical. The first code, the Mesopotamian Code of Hammurabi from the 18th century B.C. is self-explanatory.

Secondly, ancient civilizations were built around large rivers and one’s own survival depended upon the management of water supply for agriculture. This management demanded a complex and unified hydro-infrastructure with high establishment and maintenance costs. The property tax, targeting both movable and immovable assets, had climbed over the centuries and occasional revolts emerged, but records indicate that the very existence of the property tax was not challenged, i.e. the property taxation was accepted as such and its justice was not questioned. The subject matters of criticism were other aspects, linked to the second, third and fourth hypothesis – basis, calculation and the use of proceeds.

The first, justice, concerns that were seriously taken into consideration with respect to the property tax, date back to the 6th and 5th centuries B.C., when the Athenian general Aristides completely reformed the property tax and this in a manner perceived as in the interests of the city above all else. His endeavour and resetting of the property tax in compliance with the, at the time understood, justice, increased his prestige and led to his being called Aristides the Just [Carlson 2005]. Only one hundred years thereafter, the Helenian thoughts again delved into property tax. In the 4th century B.C., a pupil of Aristotle, Alexander the Great, reconfirmed the existence of the property tax but primarily for practical reasons and, perhaps for secondary „justice” concerns, changed its calculation and the use of its proceeds.

The fiscal system of the Roman Empire relied also on property tax and, as with Mesopotamia, Greece and Macedonia, the very existence or ultimate (in)justice of the property taxation was no longer a topic of discussion, perhaps not even of thinking. Identical trends went throughout the Middle Ages to the New Age. The origins of massive challenges to the justice of property taxes, namely real property tax, are traceable only to the turn of the 19th and 20th centuries. For example, in the USA, Presidents Cleveland, McKinley, T. Roosevelt, Wilson and others began to push away from property taxes to income and sales taxes [Carlson 2005], i.e. personal property tax was dramatically reduced and while the real property tax would be at least partially substituted by income and sales taxes.

On the other side of the Atlantic this trend was matched by a modified drive for income and VAT (added value tax). Nevertheless still, real property tax, unlike personal property tax, is perceived as a necessary and indispensable element of fiscal systems. Sadly, the discussions about justice in this respect are undermined by comments that stable and regular proceeds are necessary.

It needs to be pointed out that the Universal Declaration of Human Rights of the United Nations Declaration from 1948 explicitly states in Art.17 *Everyone has the right to own property alone as well as in association with others. (2) No one shall be arbitrarily deprived of his property.* And the European Convention on Human Rights from Rome 1950 explicitly states in Protocol 1 Art.1 *Every natural or legal person is entitled to the peaceful enjoyment of his possessions. No one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law. The preceding provisions shall not, however, in any way impair the right of a State to enforce such laws as it deems necessary to control the use of property in accordance with the general interest or to secure the payment of taxes or other contributions or penalties.*

It is highly legitimate to ask whether the real property tax is needed for the general interest or to secure the payment of taxes. Should not these be achieved by another tax, especially a tax not targeting passive assets purchased by already taxed money and used by these taxpayers low on cash, e.g. retired people living in their

homes? Is it just that the state, by the distributive justice, geometrically hits all real estate regardless of their potential to generate profits and the payment capacity of their owners and redistributes these proceeds? Is it just and fair to push public law distributive justice over the private law arithmetic justice? It depends upon the what, how and for what is taxed, i.e. upon the basis, tax calculation and use of proceeds.

4. The (un)just basis for the real property tax

As indicated above, property tax emerged 8,000 years ago and basically until the New Age it was a tax hitting personal property, real property and, indirectly as well, the income. The basis for property tax were basically tangible assets, both movable and immovable. Hence in the ancient period, as well as in the Middle Ages, the distinction between personal property and real property tax was at least partially blurred.

In the ancient Mesopotamian city state of Lagash, where the first property tax was collected, the basis could be any assets, i.e. a tangible good of a non-monetary nature asset [Carlson 2005]. However, the primary focus of (real) property tax was land and its productive value and the taxation typically hit the harvest. Some ancient jurisdictions used as the basis only the “*fructus*” of the property, while others opted to tax both, outcomes of land as well as the mere land, e.g. ancient Egypt.

The drive to use land as the basis for the property tax was cemented by the Roman Republic. The source of the wealth was rather the land than the buildings and this was even reflected by the legal thinking – *Superficies solo cedit* [Kincl et al. 1995]. Hence, along the proceeds, there was a separation of taxation of land and the basis was the value of such land, regardless whether the land was used or not, whether it did, could or could not bring any “fruits.”

The injustice and unfairness of this system became a subject of criticism and it was again a pragmatic military and political leader who addressed this criticism. Namely, Gaius Julius Caesar implemented a valuation system based neither on what was the value of the land nor on the really earned products, but instead he taxed what could be produced. If somebody managed to produce more, then the extra was tax-free. Economic incentives, the maximum use of the land and arithmetic justice were at the heart of this modern system.

Sadly, later on, Roman Emperors moved to abuse the real property tax and intentionally super heavily taxed real property to reduce the wealth and power of the Senators. Boldly, the largest owners of real estate in the Roman Empire after the Emperor’s family were Senators and the real property taxation was used to expropriate them [Carlson 2005]. This abuse was not only unjust, but even more economically disastrous and the combination of the destruction of ownership along with the devaluation of the currency by reducing the silver content contributed to the collapse of the Roman Empire.

The middle ages represented a return to the neutral real property tax, where the basis was rather the proceeds of the land than the land *per se*. A third large reform of the real property tax and its basis was again performed by a famous military and political leader, William the Conqueror. His conquest consecutively led to a change in ownership of basically all land in England [Morris 2012] and the new distribution of titles, along with the measures and the estimated value of parcels, was recorded in the famous Domesday Book. After the Middle-Ages and New-Ages, the drive to use as the basis more and more the reduced fair market value of the real estate was noticeable.

Currently, the biggest oscillation is linked to the eternal, and by current studies often overlooked, dilemma whether the real property tax should be assessed on the real estate based either on its “value” determined purchase/sale price, fair market value, a value set by tables or calculated while multiplying the surface by a given amount and coefficients or on its income/rental potential. The determination of the value of such property for the purpose of the real estate tax, is nationally particular and can, but does not need to, have a correlation with the most recent purchase price or fair market value.

In the Middle Ages, during the reign of Luxembourg (14th century), in the Czech lands, land and buildings: mills, craft workshops and taverns were taxed under the general tax [Janosikova 2006]. The modern Czech real property tax was linked to the profit generating capacity, see Act no. 76/1927 Coll. *on Direct Taxes*, the communists totally changed and replaced by the plain considering of the surface. Although the Velvet revolution was almost three decades ago, Czech real property tax remains totally detached from the profit bringing capacity of the real estate property.

The real property tax has been traditionally an inherent and constant part of the Czech fiscal system, it is regulated by the Act. no. 338/1992 Coll. *on Real Estate Tax*, as amended by later regulations (hereafter referred to as Act), which has been updated and changed 31 times [Janosikova 2014]. Despite these changes, no introduction of the fair market value or profitability was introduced. Although the Czech law perceives the land and buildings on it as a unity, the real estate tax hits both separately and each under a different regime and calculation, while disregarding the purchase or fair market value and instead using some bureaucratic tables inherited from communistic times, not linked to the reality.

It can be argued, under the auspices of Europe 2020 [Pelikanova, MacGregor 2016], that at least the fragmentation and diversification regarding the basis should be reduced by a soft harmonization entailing the real estate sphere in the large sense [Cvik, Pelikanova 2016] moving from bureaucratic tables detached from reality to an *ad valorem* tax base [Formanova et al. 2015]. The calculation of the property tax based on the market value of property properly reflects the evolution in the property market [Derbeneva 2015].

Discussions about the justice and fairness of the basis for the property tax have not yet been fully developed in this respect. The real property tax hits both land and buildings, sometimes while distinguishing between residential, commercial, industrial and vacant property, but what value should be assigned to the piece of real estate being the basis for the real estate tax? It can be *ad valorem* relying upon the purchase price or fair market value, based on profit or benefit, or just calculated according to a formula determined by the state and/or local government.

The selection between these determination methods depends upon the fiscal setting of the interaction of the property and income taxes and upon the political, sociological and legal perception of the property. The purchase price value is inappropriate in the case of real estate passing by inheritance from generation to generation, profit valuation is inappropriate in the case of merely family residential real estate, etc. As unjustified and arbitrary appears the valuation based on tables and formulas set by the legislature and disregarding economic reality, private ownership and market economy, i.e. it is very typical for communist and post-communist countries. The Czech determination of the basis belongs to them. Is this deficiency, perhaps injustice, magnified by an unjust real property tax rate and calculation?

5. The (un)just calculation and the rate of real property tax

In ancient Mesopotamia, the property tax rate was generally low, but in times of war could go up to 10% of the value of goods [Carlson 2005]. A similar pattern can be seen in other jurisdictions in ancient times and partially as well in medieval times. Towards the New Age and industrial and post-industrial era, the rate of the property tax generally went down and the “war surcharge” disappeared. After World War II the economy grew with people’s increased incomes and total property tax collections. However, real property tax rates and real property taxes as a percentage of total revenue began to drop [Carlson 2005].

Currently, the real property tax in the USA oscillates between 0.1% and 4%. In the EU, there is not any fundamental unification or harmonization in the determination of the basis for the real property tax or its rate [Formanova et al. 2015], which can go from nothing to some per cent, it can be either flat, or progressive or even regressive. Although the rates must be country-specific, or more precisely municipality-specific, there is a further choice between the capital-tax view or for-the-benefit view [Oates, Fischel 2016].

This could become an acrimonious political issue, because one’s own dwelling is not really a bundle of capital able to generate direct profits nor do local services match the paid real property tax. Perhaps a certain harmonisation is needed, similarly as in the case of the EU Accounting Directive 2013/34/EU incorporating the fundamental features of the IFRS to national accounting rules [Jindrichovska,

Kubickova 2017]. The post-crisis situation and austerity programs led to the introduction of the real property tax to countries where previously they did not exist and to the increase of real property tax in other countries. In Greece, real property tax has been modified to be paid even twice a year in a heavy extent – firstly as a “municipal property tax” and secondly as a “government property tax” (ENFIA) and the rate can reach 2%, and so the ultimate burden linked to the “ownership” has increased several times within the last few years. Ireland had to make as well a heavier real property tax and the rate goes progressively based on the market value of real property from 0.18% to 0.25%.

Since the setting of the basis and its valuation, as well as the determination of the applicable rate, can be dramatically different, a comparison is done based on the objective and comparable rate between the real property tax (4100 recurrent tax on immovable property) proceeds and the GDP. Certainly, real property tax generates revenue for the local and not the state budget and each state has a different level and setting of the public services on national and local levels, but still the indicated pre- and post-crisis ratio offers an interesting comparison, see Table 1, and this should be appreciated in the context of EU’s fiscal policies and funds, including the rural development pillar [Miš 2016].

Table 1. 4100 Recurrent taxes on immovable property/GDP in 2007 vs. 2014

	UK	France	Italy	Poland	Germany	Greece	Czech R.
2007	2.9%	2.0%	0.8%	1.2%	0.4%	0.2%	0.2%
2014	3.1%	2.6%	1.6%	1.2%	0.4%	1.3%	0.2%

Source: OECD statistics [<http://stats.oecd.org/viewhtml.aspx?datasetcode=REV&lang=en>].

The ratio moved up and, currently, in the UK the ratio between the real property tax and the GDP exceeds 3% and thus a reduction of its rate would be challenging due to a high annual deficit and high accumulated debt. On the opposite side of the spectrum is the Czech Republic with a non-deficit state budget and with a 15 times smaller ratio compared to the UK, i.e. 0.2% vs. 3.1%. However, it is impossible to compare the Czech and British rate, because the Czech real property tax not only disregards the value of the real estate, but in addition it does not include a clear unified rate [Janosikova, Mrkývka 2016; Janosikova 2018]. In addition to these rates, the Czech law allows municipalities to influence the real property tax rate via increasing coefficients. However, less than 10% of municipalities use this option and introduce local coefficients [Janouskova, Sobotovicova 2016].

Pursuant to the Act, both land and buildings are subject to the tax set either by percentage or fixed amount per m² (see Table 2), but some exceptions reduce its reach and the threat of “double taxation”, e.g., land with a building can benefit from an exemption as can land with a forest or water surfaces. Some exemptions

are permanent while others are just temporary (land in an industrial zone). Municipalities are free to add into the calculation a local coefficient of 1, 2, 3, 4, in the case of Prague even 5. The archaic determination of the real property tax via surface and tables remains, i.e. it does not matter if the flat is in a great downtown location or in an undesirable setting in unpleasant suburbia.

Table 2. Czech real property tax rates without coefficients

Real property tax rates for land				Real property tax rates for buildings			
Exploited forests, lakes	Arable land	Building parcel	Industrial zone	Family house	Recreation house	Garage	Factory
0.25%	0.75%	CZK 2/m ²	CZK 2/m ²	CZK 2/m ²	CZK 6/m ²	CZK 8/m ²	CZK 10/m ²

Source: own study based on [Act no. 338/1992 Coll. *on Real Estate Tax*].

An average Czech cannot manage this mathematic process. Luckily, the tax amount basically remains the same. The „ultimate justice” is done by the fact that the resulting tax is affordable oscillating often around CZK 2,000 and for individuals seldom going beyond CZK 5,000, while Americans are often paying the “unjust” USD 10,000.

6. The unjust designation of the proceeds of the real property tax

The Sumerian *bala*, property tax with perhaps features of current income tax, was generally imposed and its proceeds in the form of a tangible good of a non-monetary nature, i.e. livestock, grains, etc., were used to finance especially public infrastructure, such as buildings canals, allowing for agriculture in this dry area with water from Tigris and Euphrates [Bodley 2011]. It took several millenniums to consider local needs. The personality crossing the Rubicon was the Alexander the Great, who in the 4th century made a tax revolution in the conquer provinces and countries by deciding that only one half of the property tax is to be sent in his treasury and another half should stay „local” and finance local improvements [Carlson 2005]. This positive conceptual move might be influenced by his tutor, nobody else than Aristotle, nevertheless the key motive was a mere pragmatism – Alexander the Great both decreased the tax and left the half of the proceeds where collected to prevent revolts.

Since Domesday Book records of William the Conqueror were kept in each town for pertinent estates, the linking between local revenue and local public administration costs, launched by Alexander the Great, was cemented. The real property tax has become a key source for financing local public schools, infrastructure, etc. Despite the fact that the real property tax is a well-established element of almost all fiscal systems, there were and still are large differences in the setting of its basis and rates.

Currently, in the USA, real property tax is typically levied by local governments, the rate is between 0% and 4% and the proceeds support local education, police and fire protection, some free medical services and some infrastructure parts benefiting the entire population. Without successful reductions via the assessment of value, after 25 years the value of the price of the house is repaid by its owners to the local government. Every year there are people forced to sell their dwellings due to their incapacity to pay the real estate taxes and even people being foreclosed, ending in bankruptcy or otherwise losing their dwellings due to the real property tax.

Is there an equivalency between real property tax paid and the services offered and in general? Is it just to turn owners of real estate in tenant of the state and compulsory payors of services which they do not need and cannot control? Does not the elimination of the corrective justice by the distributive justice lead to an erosion of the concept of ownership, traditionally different from the mere possession and use? In the EU, the introduction of the real estate tax in Croatia led to academic discussions suggesting its negative long-term effects, such as the ghettoization of Croatian cities and adverse effects on education in Croatia [Vidakovic et al. 2016]. In the UK, where the real property tax has existed “since forever”, Theresa May’s government announced its intent to reduce the corporate tax and public replied that the reduction of the property taxes is more needed [Chang, Fraser 2016] crippling the British competitiveness.

The distinction between the ownership and the possession is evaporating. Naturally, local services need to be paid and a real estate tax is hardly to be evaded and generally if someone affords the land and house, he should be able to afford a little bit extra something every year... pragmatically this works, but deeply conceptually a dormant doubt remains... and occasionally it comes out and leads to a nationally particular change or even reform of the real estate tax regime. Indeed, in the capital-tax perspective, the real estate tax is a tax on capital which took the flash of a piece of real estate, while in the benefit perspective, real estate tax is not a tax at all, instead it is a general fee for public services provided on the local level [Oates, Fischel 2016].

The user cost of capital approach perceives homeownership as an investment [Himmelberg et al. 2005] pursuant to neoclassical investment theory [Poterba 1984], not as family residence to be inherited within the family and which is neither rental property nor investment.

The Czech real property finances local services identically (e.g. elementary schools), it is five times higher for identical real estate in the capital Prague than in smaller villages. The amount of real property tax is not consumer unfriendly, while public services on the local level are provided in an acceptable quantity and quality. Americans paying often USD 10,000 can enviously look to Czechs typically way under USD 200 and still receiving a good education service and other local services (naturally Czechs pay VAT tax, flat income tax, etc. and their proceeds may end in subsidizing public services even on the local level).

7. Conclusion

Real property tax has evolved for thousands of years, it is present in almost all jurisdictions, but its regimes vary dramatically. It hits both the lands and buildings. The assigned value of the property for real property tax can be *ad valorem* – relying upon the fair market value, based on profit or benefit, or just calculated according to a formula determined by the state and/or the local government. Hence, there is a common consensus about its existence, but not about its basis and rate. Even the use of its proceeds is far from being commonly endorsed.

Challenges and doubts about various aspects of the real property tax entail concerns dealing not only with the law, economics and politics per se, but as well with the underlying philosophical concepts and especially with the very subjective perception of the ephemeral concept of justice. The Aristotle's distinction between geometrical justice and corrective justice reflected in the Roman law by the distinction of the public law and private law and of ownership triad vs. possession and use shine through. Real property taxation, basis, rates and the use of proceeds should be perceived as clear, understandable, legitimate, and at least partially just.

The post-modern global society standards, human rights, demands of the smart, sustainable and inclusive growth of Europe 2020 and other requirements reflect the underlying expectation of fairness by all stakeholders. The long and uninterrupted existence of the real property taxation testifies both for its appropriateness, as well as for the need to readjust its setting and position vis-à-vis other taxes within each national fiscal system.

Similarly, the balancing of needs is to be done regarding its basis. The feeling of justice could be reinforced by a clear understanding of the fundamental nature and function of the given piece of real estate and by a transparent setting of a tax rate leading to a predictable and not-expropriating tax calculation. Concerning proceeds, it can be just holistically stated that real property tax is perhaps more fee than tax and that its proceeds correctly go to public administration on the local level and that the justice is (not) done directly by concerned municipalities.

Certainly, the presented conclusion is more indicative than conclusive due to the limited extend of the comparative historic research and to the use of only one national case study. Nevertheless, even in the light of these limits, interesting points have been generated. Namely, it has been revealed that the real property tax and taxation varies dramatically and arguably can be compatible with a general notion of justice despite totally obsolete and archaic setting – see the Czech case study. It can be concluded that (i) real property taxation, (ii) determination of its basis, (iii) calculation and the rate, and (iv) the use of proceeds of real property tax are not perceived as perfectly compatible with our perception of justice as founded by Aristotle. It can be recommended that a deeper, comparative and teleological

discussion reflecting the Aristotle's conception of justice could both enhance the awareness and bring some suggestions for the improvement of current real property tax and taxation as such. This discussion would be facilitated by research and contributions focusing in more depth on various aspects of the real property tax, including its justification in various jurisdictions.

However, already at this point it can be legitimately proposed that the reasons for preserving real estate tax are long-standing traditions, stable income, unattainability and simple evidence and management. It is hard to find the weak side of this tax regarding its assessment and selection. Not only in history this tax has its place in tax systems, it is in the present and it is also possible to expect its choice in the future. Although several aspects of the real property tax face serious justice issues, in general the existence *per se* of the real property tax is fully justified and the mentioned issued should be addressed and corrected.

A first step in this direction would be to further and deeply study the roots and impact of this tax from the perspective of the legitimate expectation of the society and to enhance the general awareness of the public about it. Following steps should lead to the proposals for the improvements of its regime, such as for the simplification of its calculation, readjustment of its basis and more transparent collection and use of proceeds, perhaps simplified by the use of modern technologies.

Real property tax has been serving for millenniums, let us make this service to be recognized as just and in interest of societies as well as stakeholders in the 21st century. Let us balance the geometrical and corrective justice and consider merits in an open-minded manner. Imposing and increasing the real property tax on the "whatsoever" basis, just because it is easy and brings stable revenue, is definitely not a sustainable answer.

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