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ПРИБУТКОВИЙ ПОДАТОК З ФІЗИЧНИХ ОСІБ, ЯКІ ЗДІЙСНЮЮТЬ ПІДПРИЄМНИЦЬКУ ДІЯЛЬНІСТЬ У ПОЛЬЩІ, – ХОРОШЕ РІШЕННЯ?

Представлено переваги і недоліки конкретних форм податку на доходи фізичних осіб. Була сформульована теза про неадекватність податкових рішень, які застосовується в даний час у Польщі, суть якої проявляється в деталях і обмежених можливостях вибору форми оподаткування. Існують різні форми оподаткування і контролю держави над платниками податків; проблема в тому, щоб визначити межу, до якої податкове навантаження приходить у формі ухвалених політичних рішень, які пов'язані з певною соціальною і економічною ідеологією. Однак коли такі обмеження перевищені, податкове навантаження приходить у прихованій формі конфіскації.

Ключові слова: податок, бізнес-діяльність, податкові форми, податкові пільги.

Uziębło A. PERSONAL INCOME TAX OF NATURAL PERSONS CONDUCTING BUSINESS ACTIVITIES IN POLAND – A GOOD SOLUTION?

The article presents advantages and disadvantages of the particular forms of income tax imposed on natural persons. A thesis has been formulated about inadequacy of taxation solutions currently applied in Poland. The discussed inadequacy is manifested in the details and limited possibilities of choosing the form of taxation. Constant changes in the personal income tax regulations indicate that the optimum, which could guarantee simple solutions encouraging people to run business activities and that could also guarantee the state a possibility to control correct tax settlement, has not been found yet. There are various forms of taxation and control of the state over taxpayers; the problem is to define the limits up to which the tax burden comes as a form of acceptable political choices which are related to a particular social and economic ideology; however, when such limits are exceeded, the tax burden comes as a concealed form of confiscation. Depending on the selected form of taxation, the fluctuation of the tax is very high; assuming the income at the level of 20 000 EUR and costs at the level of 18 000 EUR, it can be as low as 228 EUR and as high as 11 000 EUR annually.

Keywords: personal income tax, business activities, taxation forms, tax benefits.

Problem: discussions on the income tax have been continued for many years in various areas: philosophical, psychological and economic. The article is focused on the economic field, combining some attempts at the simplification of the tax system in Poland with the results involving possible advantages for taxpayers. Constant changes in the personal income tax regulations indicate that the optimum, which could guarantee simple solutions encouraging people to run business activities, and that could also guarantee the state a possibility to control correct tax settlement, has not been found yet.

The analysis of the latest research and publications.

The starting point for the considerations presented in the article is a publication edited by Professor Lech Balcerowicz, which presents a selection of texts provided mainly by some outstanding economists, philosophers and psychologists on freedom and the role of the state, its political system, market and liberalism. Wołowicz and Skica focus on the analysis of the income tax in the European Union. The authors analyse the tax policy, indicating its serious economic and social consequences. However, no ideal solution has been provided so far.

The article aims at the identification of possible advantages for taxpayers, resulting from the selection of the particular forms of taxation imposed on the income earned from business activities and at the identification of advantages and disadvantages of each solution. The article

does not provide any detailed discussion of legal solutions applied in that field in Poland; only an analysis of their key assumptions is provided.

The following research methods and tools have been applied: the analysis and criticism of the Polish normative acts, mainly from the field of the income tax of legal persons. The subject of the analysis is a natural person who runs business activities in Poland and who is given a possibility to choose the form of taxation, in accordance with the Polish legal regulations as they are stated on 31st March 2017.

The Civil Code defines the characteristics of a natural person, and considering the issues discussed in the presented article, the most important features are individualisation (a name, a surname), being a subject of a relation under the civil law, legal capacities to perform legal activities. A legal definition of a business activity in Poland states that it is an economic activity involving production, construction, trade or services provided in a continuous and organised way. A taxpayer is generally defined by the Polish legal regulations as a natural person, a legal entity of an organised entity without legal personality, which is subject to tax liability based on the legal tax acts. Additionally, it should be emphasized that there are some differences between the tax law and the balance sheet accounts legal regulations. The tax law is usually understood as a set of legal regulations which define the level of taxes and the

way they are collected; such regulations come as a tool for the fiscal authorities. However, the tax law is not identical with the balance sheet accounts law which comes as a set of legal regulations defining the main accountancy rules for economic entities. The balance sheet accounts law must be respected in order to provide a real economic and financial situation of an entity. In fact, both these laws affect accounting, seen as a system of information, in various ways, and they mainly affect the picture of an economic entity. The balance sheet accounts law creates a real image of an economic entity with the use of economic facts, which usually refer to incurred costs and income generation. The tax law is used for the implementation of the tax policy and, particularly, for the performance of the fiscal function. Considering the dual character of the law, that is namely: simultaneous applicability of the balance sheet accounts law and the tax law to economic entities, there are some accounting, settlement and financial consequences. The legal regulations referring to the income tax force taxpayers to keep accounting records in a way that provides the definition of the income levels, taxable base and the level of due taxes for a tax year.

In Poland a natural person may choose from several forms of income taxation of natural persons (*Scheme 1*). Every form, however, has its limitations in terms of its application, various advantages and disadvantages, depending on business activities carried out by a natural person. Therefore, the analysis of tax benefits and the decision on the taxation form should be carried out for an individual person.

Taxation on business activities			
Act on the income tax of natural persons		Act on the flat-rate income tax	
General principles:	General principles:	Lump sum tax on recorded revenues	Fixed rate tax
Tax scale 18%, 32%	Flat rate tax 19%		

Scheme 1: Taxation forms of personal income tax

According to Scheme 1, the forms of accounts records for income taxation that can be selected by a natural person who runs business activities are as follows: the fixed rate tax and the lump sum tax on recorded revenues (subject to the Act on the lump sum tax) and the general principles which are regulated by the Act on the income tax of natural persons.

The fixed rate tax requires a declaration submitted to the tax office. Based on an individual decision, the head of the tax office grants a taxpayer the right to use that form of taxation and defines the taxation rate. It is the simplest form of taxation of all, considering (see *Table 2*) the fact that there are no monthly income statements, there is only symbolic annual information submitted to the tax office, there is no obligation of keeping accounting ledgers, no monthly advance personal income tax payments and no subject to taxation (neither revenue nor income are subject to taxation; the tax amount is defined by the head of the tax office, and it is constant throughout the fiscal year).

The income tax assessment depends on the type of business activities, the number of employees (usually 0, which means that there are no employees, sometimes up to 2-3 employees and in some cases up to 5 people

employed), the size of the town where business activities are performed (the current division is the following: up to 5000 inhabitants, over 5000 up to 50 000 and more than 50 000 inhabitants). The type of business activities should be consistent with the classification defined by the legal regulations, that is namely, among others: providing services, manufacturing, food and beverage retailing, selling tobacco products and flowers, selling home-made meals at home, freelance professions in health care, for example: physicians, nurses; freelance professions in veterinary services, home nursing care, babysitting, education services – private lessons at home.

The tax is payable irrespective of the actual revenue (which may come as an advantage when the revenue is high, but it may become a serious burden when the revenue is low). A taxpayer may not make any deductibles from their income (revenue) and from the tax. Some special tax reliefs may be defined by the tax office for the disabled or for entrepreneurs who employ the disabled.

Obviously, legislators dedicate this way of tax settlement to people who run small companies, usually as sole independent business entrepreneurs, however, it does not mean that taxpayers with high turnovers or with large assets are not allowed to take advantage of that taxation form. By meeting all the requirements of the tax law, such people also get a chance for such an exceptionally favourable way of tax settlement.

The lump sum tax on recorded revenue also comes as a simplified form of taxation which is dedicated to people who earn their revenue exclusively on independent one-man business activities (or in a form of a partnership of natural persons), at the amount which does not exceed the level of 150 000 EUR. In order to use that form of taxation, one must submit a statement to the tax office. Taxpayers who did not exceed the amount equal to 25 000 EUR in the previous fiscal year are entitled to settle their tax liabilities on quarterly basis. The amount of the due tax is not affected by the incurred costs of business operations, because the tax is paid on the revenue, not on the income. There is no obligation to keep cost accounting records unless they are needed for some other purposes, e.g. VAT (purchase) and staff (salary statements, see *Table 2*).

The advantage of the lump sum tax on recorded revenues is simplified accounting where no tax deductible expenses are recorded. Taxpayers and partnerships in which partners are due to pay the lump sum tax on recorded revenue are only obliged to keep records of their revenues separately for each fiscal year. The lump sum tax on recorded revenue is imposed on, among others: revenues earned by natural persons from non-agricultural business activities, revenues earned by natural persons who operate in the form of a private partnership of natural persons or a general partnership of natural persons, revenues earned on hire, sub-hire lease, sub-lease agreements or any other agreements of similar nature.

The tax rates are differentiated in terms of the revenue type, namely: they range from 20% for freelance professions (e. g. lawyers), 17% (generally) on the revenues earned on wholesale, 3% for catering services. An advantage of that solution involves rates which are lower than the rates under the general principles, flat rates

and a simplified way of keeping tax records. However, similarly to the fixed rate tax, there is also a disadvantage involving no possibilities of making deductions from the income (revenue) and from the tax.

Another form of the income taxation on natural persons who run business activities is the tax scale. In this case the income is subject to taxation, that is: the difference between the revenue and the incurred costs. The current tax scale in Poland (as stated on 1st January 2017) is presented in *Table 1*.

Taxable base calculation		Due tax	
over	up to		
	85 528 PLN	18%	
85 528 PLN		15 395.04 PLN + 32% of the surplus over 85 528 PLN	minus tax-reducing amount

Table 1: Income tax of natural persons in Poland according to the tax scale

The tax scale is a taxation method applied to levy personal income taxes; based on that method a tax progression is applied. It means that the tax rate increases when taxpayers' revenues move them into the next tax

bracket; the tax brackets are statutorily defined. The most important advantage of this solution is a possibility to reduce revenues by tax deductible expenses (sometimes it means that there shall be no tax to pay at all) and a possibility to make use of some tax reliefs or to apply joint taxation with the spouse and to deduct the loss incurred during the previous years.

The flat rate tax is mainly dedicated to taxpayers who perform their business activities independently. Its structure resembles the scheme of the income tax calculated on the basis of the tax scale. In this case the advantage also involves a possibility of settling the loss incurred during the previous years and a possibility of reducing the tax by tax deductible expenses. It also provides a stable rate which does not depend on the taxable base. A disadvantage of this solution is the obligation to keep the accounts records and no possibility of using any tax relief or joint taxation with the spouse.

Conclusions. There are various forms of taxation and the control over taxpayers performed by the state. The problem is to define the limit up to which the tax burden is a form of acceptable political choices related to the particular social and economic ideology, and over which it becomes a concealed form of confiscation.

Feature	Fixed rate tax	Lump sum tax on recorded revenues	Tax scale	Flat rate tax
Taxable base	n/a	revenue	income	income
Annual tax return	very simplified	required	required	required
Monthly advance personal income tax payments	none, due amount is defined in advance	required (a possibility of quarterly settlement)	required (a possibility of quarterly settlement)	required (a possibility of quarterly settlement)
Tax rate/amount	79 – 4117 PLN	20%; 17%; 10%, 8,5%, 5,5%, 3,0%	18%, 32%	19%
Tax reliefs and preferences	n/a	n/a	n/a	yes
Accounting ledgers	n/a 1	n/a 2	required	required

¹ It is not required by the tax regulations, however the balance sheet accounts law may impose its own solutions in that field.

² unless required by the balance sheet accounts law, VAT regulations or for the purpose of staff financial settlements.

Table 2: Characteristics of the basic taxation forms of natural persons who conduct business activities in Poland

Depending on individual possibilities of using a particular taxation form, tax deductibles and tax reliefs (or their lack), the level of the revenues and incurred expenses, taxpayers who run the same business activities may change their decisions on the selected taxation form. However, the financial benefits (a lower tax) can be balanced with the lack of the requirements which refer to keeping accounts records for the taxation purposes (cost and time-consuming), with the sense of safety and stability (a defined percentage of the tax on the revenues or a tax defined by the tax office). Assuming that there are no tax reliefs and deductibles and according to the taxation methods listed below, a taxpayer who runs business activities and who earns revenues on sale at the amount of 20 000 EUR and costs at the amount of 18 000 EUR may pay an annual income tax at the following amounts (the exchange rate as stated on 31st March 2017: 1 EUR = 4.2198 PLN; the exchange rate of 1 UAH = 0,1460 PLN on that day; the social insurance contributions have not been considered):

a. Fixed rate tax: from 228 EUR to 11 712 EUR approximately,

b. Lump sum tax on recorded revenues: from 600 EUR to 4 000 EUR approximately,

c. Tax scale: 230 EUR approximately,

d. Flat rate tax: 380 EUR approximately.

It should be remembered that *the essence of democracy is the awareness of citizens that every penny levied on taxes belongs to all of us, not only to the politicians* (S. Kelman, Harvard Kennedy School of Government). Such considerable differences in taxes may encourage people to avoid paying, however the introduction of a uniform single rate tax, either flat rate or progressive, does not seem possible. Although the analyses indicate that in the European Union there has been a conspicuous tendency towards progression flattening observed (reduction of the higher tax rates), tax revenues are maintained at the same level, or they are at a slightly lower level; such a solution is unfavourable for natural persons who run small business activities.

With its economy of great development potential, Ukraine also applies various forms of taxation (single rate tax). A direct comparison of both countries in this respect is difficult, considering a great number of details of the

tax law and different specifics of the applied solutions; it is however crucial for the selection of taxation form by taxpayers and the possibilities of the state control over the tax settlement.

References

1. Balcerowicz L. Odkrywając wolność. Przeciw zniewoleniu umysłów – Poznań: Zysk i S-ka, 2012 – P. 511–539.
2. Rozporządzenie Ministra Finansów z dnia 17.12.2002 r. w sprawie prowadzenia ewidencji przychodów i wykazu środków trwałych oraz wartości niematerialnych i prawnych, Dz. U. z 2014 r. poz. 701 (Ordinance of the Minister of Finance of 17th Dec. 2002 on keeping revenue records and fixed assets records and intangible assets; Journal of Laws 2014, item 701).
3. Rozporządzenie Ministra Finansów z dnia 17.12.2002 r. w sprawie prowadzenia ewidencji zatrudnienia, Dz. U. z 2002 r. nr 219, poz. 1838 (Ordinance of the Minister of Finance of 17th Dec. 2002 on keeping employment records; Journal of Laws 2002, no. 219, item 1838).
4. Ustawa z dnia 23.04.1964 r. Kodeks cywilny, Dz. U. z 2017 r. poz. 459 (Act of 23rd April 1964, Civil Code, Journal of Laws 2017 item 459).
5. Ustawa z dnia 29.08.1997 r. Ordynacja podatkowa, Dz. U. z 2017 r. poz. 201 (Tax Ordinance Act of 29th Aug. 1997, Civil Code, Journal of Laws 2017 item 201).
6. Ustawa z dnia 20.11.1998 r. o zryczałtowanym podatku dochodowym od niektórych przychodów osiąganych przez osoby fizyczne, Dz. U. z 2016 r. poz. 2180 (Act of 20th Nov. 1998 on the lump sum income tax on some revenues earned by natural persons, Journal of Laws 2016 item 2180).
7. Ustawa z dnia 26 lipca 1991 r. o podatku dochodowym od osób fizycznych, Dz. U. z 2016 r. poz. 2032 (Act of 26th July 1991 on the income tax on natural persons, Journal of Laws 2016 item 2032).
8. Wołowicz T. Skica T. Podatek dochodowy od osób fizycznych w krajach Unii Europejskiej. Wybrane aspekty – Rzeszów, Szczecin, Naukowe Wydawnictwo IVG, p. 110–115.
9. www.nbp.pl.