

IDENTIFICATION OF THE URBAN MUNICIPALITIES OF THE MAŁOPOLSKA REGION IN TERMS OF CHANGES IN THE REAL ESTATE TAX RATES IN BUSINESS ACTIVITIES OF ENTERPRISES IN THE PERIOD 2010-2015

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Abstract

One of the basic conditions of autonomy and financial self-sufficiency of the municipalities is conducting a conscious tax policy. The paper discusses the problem of municipal strategies in relation to determining real estate tax rates. The aim of the paper is to present the real estate tax rates for enterprises in the urban municipalities of the Małopolska Region over the last five years. The paper ends with conclusions and direction for further research.

Keywords: *real estate tax, local taxes.*

1. Introduction

One of the basic conditions of autonomy and financial self-sufficiency of the municipalities is conducting a conscious tax policy. Local governments take responsibility for the economic development, improvement of quality of life, infrastructure condition and the size of the investment. The knowledge, skills and entrepreneurship of local authorities play a key role here. The Polish real estate tax system consists of real estate tax, agricultural tax and forest tax. For the vast majority of municipalities and especially the urban ones, real estate tax is the most important, most efficient and profitable local tax (Plonka, Wojewodziec, 2009). Introduction by the municipalities of tax rates at the highest level specified by the legislator, may in the short term result in an increase in budgetary revenues. However, the consequences of dissatisfaction of entrepreneurs with such a policy of the municipality should be taken into account, too. This, in turn, can result in e.g. a transfer of the business activity of some of the entrepreneurs to the areas of other municipalities or lack of influx of new investors. On the other hand, the introduction of low tax rates may result in a temporary decline in budgetary revenues of the municipality

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and may inhibit planned activities or enable the municipality to fulfill the liabilities imposed on it. The article addresses the issue of municipal policy for determining the real estate tax rates.

The main aim of the article is to identify the strategies of the urban municipalities of the Małopolska Region in making changes to real estate tax rates in the business activity of enterprises. The author sought to determine whether the examined municipalities make changes in real estate tax rates related to conducting economic activity according to clear and visible strategies. The first part of the author's thesis contains a review of subject literature and the legal basis of the examined tax. The following sections comprise methodological issues and analysis results. The article ends with conclusions and direction for further research.

2. The characteristics of the real estate tax

Both the State and local governments have to fulfill the tasks entrusted upon them by law, for the implementation of which they receive specific grants. The municipality, as the basic unit of local government, has legal personality, thus it is an economic entity which performs public functions (Wojewodzic & Plonka, 2008). An important feature of municipalities as units of local government is their financial independence understood as the right to have sufficient financial resources to perform the tasks (Głuszak & Marona, 2015). Financial resources of municipalities being collected, aim at meeting the needs of the population in terms of public goods (Sadowska, 2013). It should be emphasized that the costs of the implementation of their own tasks are usually covered by the municipalities by means of their own revenues and general subsidy, and the tasks assigned are financed by designated subsidies provided by the government administration (Głuszak & Marona, 2015).

Adjusting the rates of council tax plays a significant role in shaping the local development and entrepreneurship. The municipality performs public tasks which are local in nature and are not restricted by laws to the benefit of other entities. Such tasks are fulfilled by the municipality on its own behalf and at its own risk. Their own tasks are specified by the act on local self-government (Małkowska, 2003). Tax revenues and local fees cover budgets of municipalities entirely and account for a part of their own revenues.. Relevant provisions give tax control to municipality authorities. Such control involves the possibility of shaping some of the structural elements of selected local taxes, setting the final rate of taxes paid by taxpayers or establishing additional (except statutory) exemptions from „direct” local taxes, including the real estate tax. Such tax exemptions may, however, be of only objective nature (Kotlińska, 2011) . The real estate tax is the most important and most efficient

source of municipalities' own revenues, it has a great fiscal importance for budgets of many municipalities, especially urban and industrial ones (Czempas, 2009). The functioning of the real estate tax is regulated by the Act of 12 January 1991 on Local Taxes and Charges (Poland's 1991 Act).

The subject of the real estate tax is possession of or autonomous ownership or perpetual usufruct of real estate, including (Czempas, 2009):

- buildings or their parts,
- the land not subject to agricultural and forest tax or subject to, but linked to running a business activity other than farming or forestry activity,
- the land linked to performing business activity other than forming or forestry activity,
- the land under lakes, the land covered by water reservoirs and hydroelectric power plants.

There is a wide range of subjective real estate tax because the taxpayers are individuals and legal persons and organizational units, including companies having no legal personality, if they are (Czerski & Hanusz, 2008, pp. 25-26):

- owner-like possessors of real property or civil structures, with the provision that if the object of taxation is held under independent possession, the real property tax obligation is imposed on the owner-like possessor),
- owner-like possessors of real property or civil structures,
- perpetual usufructuaries of land,
- holders of real property or its part, or civil structures or their parts, owned by the State Treasury or local government units, if the possession:
 - a) results from an agreement concluded with an owner, the Agricultural Real estate Agency of the State Treasury or from some other legal title,
 - b) is performed without a legal title.

The real estate taxable base is (Głuszak & Marona, 2015):

- for land – its area,
- for buildings or their parts – floor space, subject to Article 3 para 3 of the Act,
- for buildings or their parts linked to running a business activity – the value referred to in income tax regulations, established on 1 January of the tax year, which is the basis for calculating depreciation in that year, not reduced by depreciation allowances; and in the case of fully amortized structures – their value as of 1 January of the year in which the last depreciation allowance was recognized.

Real estate tax rates which apply to a particular municipality are determined by municipal council resolution, maintaining the upper statutory limit, that is increased annually by the regulation of the Minister of Finance.

In 2015, maximum real estate tax rates are as follows: (Notice of Ministry of Finance, 2014):

- 1) on lands:
 - a) linked to running business activity, regardless of the classification in the Land and Real estate Register – 0,90 PLN per 1 m² of the area,
 - b) under lakes, destined for water reservoirs and hydroelectric power plants – 4,58 PLN per 1 ha of the area,
 - c) other, including land used for payable statutory public benefit activity performed by public benefit organizations – 0,47 PLN per 1 m² of the area;.
- 2) on buildings or their parts:
 - a) residential buildings – 0,75 PLN per 1 m² of usable building area,
 - b) linked to running business activity and on residential buildings or parts thereof used for business purposes – 23,13 PLN per 1 m² of usable building area,
 - c) occupied for the purpose of running business activity related to qualified seed trade – 10,80 PLN per 1 m² of usable area,
 - d) related to the provision of health services within the meaning of the regulations on medical activity, occupied by the providers of such services – 4,70 PLN per 1 m² of usable area,
 - e) other properties, including those occupied for the purpose of running payable statutory public benefit activity performed by public benefit organizations – 7,77 PLN per 1 m² of usable area.
- 3) structures or their parts – 2 % on their value.

Tax liability arises on the first day of the month following the month in which circumstances justifying the formation of this liability occurred. The real estate tax is paid (Act of 1991):

- by individuals obliged to pay real property tax, the tax is payable in installments proportionate to the duration of the tax obligation: by 15 March, 15 May, 15 September and 15 November of the tax year,
- by legal persons and organizational units not being Legal entities – for individual months the tax is paid by the 15th day of each month,

In the case of the real estate tax, a number of tax reliefs and exemptions is implemented, which result directly from the Act of 12 January 1991, on Local Taxes and Charges, or from other acts. Real estate tax exemptions are of extraordinary nature, that applies in the area of a particular municipality, are introduced by the municipal council by virtue of a relevant resolution (Czempas, 2009).

The real estate tax plays a very important role as a source of revenue for municipalities. According to the analysis of Swianiewicz et al. (2013) the real estate tax remains the most efficient source of own revenue for municipal

governments. In 2010, it brought in revenue of 15.1 billion PLN, and if we added to this amount the effect of rates reductions, reliefs, exemptions, depreciations and deferrals granted by the municipality, the total amount would reach 18.2 billion PLN. This amount represented 12% of total revenue of municipal governments, and if municipalities were to apply only the maximum rates (in terms of all taxes and local charges), this share would rise to 14% of all revenues“. Reducing real estate tax rates can be a way to attract new investors and entrepreneurs, but in practice such proceedings often take place without prior assessment of the likely effectiveness of such measures (Korolewska, 2014). Undoubtedly, the tax policy of municipalities, including the issues related to the real estate tax, should also be guided by non-tax objectives such as supporting the development of entrepreneurship and improving relations with investors. In this case, however, the immediate effect may be a decrease in budgetary revenues because of exemptions used, tax reliefs or depreciations or deferrals of tax liability (Korolewska, 2014). Attention should also be paid to the fact that municipalities can be satisfied with the budgetary revenues from real estate taxes. In such a situation, the municipality and its residents can gain more by effectively investing revenues from real estate taxes than from a possible withdrawal of real estate tax payers.

3. Examination of real estate tax rate changes

Municipalities using a conscious tax policy should apply legible strategies in establishing real estate tax rates, in particular those related to business activities of enterprises. In order to identify these strategies, the resolutions of the Małopolska region municipalities were analyzed.

The analysis which was carried out sought to examine how the tax rates for properties related to running a business activity were being shaped in 14 municipalities of the Małopolska region, which hold the status of township. The main aim of the analysis is to answer the question of whether municipalities of the Malopolska province make changes in tax rates for properties linked to running a business activity according to legible and visible strategies. The study was carried out in the period of 2010-2014. The real estate tax rates are established by virtue of resolutions adopted by the Municipal Council, and therefore it was necessary to analyze the relevant resolutions, which in terms of the research were in nature similar to the one of external normative documents (Stachak, 1997, p. 154).

The content of the resolutions was obtained by the author mainly from the online publication of the Public Information Bulletin, which is the official publication and the obligation of keeping and updating its records arises from the regulations of the Act (Act, 2001, Ordinance, 2007). In cases where the

content of the resolutions was not available in the online Public Information Bulletin, documentation posted on the official websites of individual municipalities was used. In the case of one of the municipalities, in order to obtain the contents of the relevant resolutions, direct contact with the request for access to those documents was necessary.

In the case of the municipalities that differentiated real estate taxes in more detail, accepted the highest rate in a particular category was applied. Some basic elements of statistics were implemented for the analysis of the phenomenon. In addition, in order to illustrate its dynamics, the indicator of the “average change in tax rate” was used.

The rates of the following taxes were analyzed:

- on lands linked running a business activity, regardless of the classification in the Land and Real estate Register – *hitherto called “1A” tax rates,*
- on buildings or their parts related to running a business and on residential buildings or their parts used for business purposes – *hitherto called “2B” tax rates.*

It is worth noting that each time when municipal councils of the examined municipalities by virtue of a new resolution introduced increases in real estate tax rates, they did it almost always for both examined categories of such tax. As a result, there is a greater transparency in the comparison and analysis.

In the analyzed period in any of the municipalities there was no reduction in real estate tax rates. There was also no municipality in which not once during the entire period the real estate tax rates had not been changed. Most municipalities changed the tax rate 2 times, however, the Municipality of Nowy Sącz and Nowy Targ changed tax rates once; Kraków, Gorlice and Grybów 3 times; Tarnów and Jordanów 4 times, whereas the Bukowno Municipality changed tax rates each year.

Over the whole study period, there were 2 cases where the change in rate of one tax (1A) was accompanied by another tax (2B) remaining intact. These cases were observed in the municipalities of Nowy Sącz and Nowy Targ in 2013. Yet there is a tendency where in case in a given year a change in real estate tax rates is enacted, both 1A and 2B taxes are subject to a change (Table 1).

Most of the municipalities raised tax rates in 2012 and 2013. Since then the trend to make changes in tax rates has been declining and in 2015 only two municipalities changed their tax rates. It may be noticed that the majority of municipalities apply a changes in tax rates policy once in approximately 2 years. To fully illustrate the policy of setting real estate tax rates, the percentage of change (increase) in tax rates should also be shown. Some municipalities differentiate the frequency and level of rates in a specific manner (Table

1). The Bukowno Municipality was the only municipality that changed tax rates each year over the whole study period. The total growth in a rate in that municipality since 2010 has increased in terms of 1A tax by 0.11 PLN, and in terms of 2B tax 2B – 1,75 PLN. The Jordanów Municipality has amended tax rates 4 times and the tax 2B increase throughout the whole period of study was 3.2 PLN. On the other hand, the Municipality of Kraków has changed tax rates 3 times and in this case, the increase accounted for 0,22 PLN in terms of 1A tax and 4,38 PLN in terms of 2B tax. At the same time these are the largest increases in both categories. As shown in Table 1, more important than the frequency of changes in the real estate tax are the amounts of change in these rates. However, there emerges no tendency with regard to the policy of carrying out changes in rates of the examined taxed in municipalities. It might seem that changes in real estate tax rates are dictated by current needs and financial situation of municipalities.

Table 1. Changes in rates of examined real estate taxes in the period 2010-2015

Name of municipality	1A		2B	
	increase in rate from 2010 to 2015 (in PLN)	number of changes in rates	increase in rate from 2010 to 2015 (in PLN)	number of changes in rates
Kraków	0,22	3	4,38	3
Nowy Sącz	0,09	2	0,78	1
Tarnów	0,15	4	2,00	4
Bochnia	0,04	2	1,21	2
Gorlice	0,08	3	1,97	3
Limanowa	0,06	2	1,48	2
Mszana Dolna	0,07	2	1,70	2
Grybów	0,19	3	0,97	3
Nowy Targ	0,08	2	1,33	1
Bukowno	0,11	5	1,75	5
Oświęcim	0,06	2	0,80	2
Jordanów	0,15	4	3,20	4
Sucha Beskidzka	0,06	2	1,85	2
Zakopane	0,11	2	1,08	2

Source: Own research based on the resolutions of municipal councils.

Among the surveyed municipalities, in the Krakow municipality 1A tax rates were the highest for 2 years, and 2B tax rates were the highest for 4 years. The municipality with the lowest tax rates is the Municipality of Bochnia,

which during the whole period of study had the lowest rate of 1A tax and over almost the whole period, with the exception of 2013, had the lowest 2B tax rate.

In the analyzed period, the maximum increase in A1 tax rate A1 was 27.1% and was applied in the municipality of Grybów in 2012. The maximum increase in the rate of 2B tax accounted for 10.6% 2B and was adapted in the municipality of Krakow in 2011. The average rate of change in 1A tax rates is 3.1% 1A and in terms of 2B tax it accounts for 1.9% (Table 2). This means that in the urban municipalities of the Małopolska region in 2010-2015 tax rates of 1A tax were increasing every year by an average of 3.1% and 2B tax rates were increasing by an average of 1.9%. In the case of 1A tax, this increase is similar to the average rate of change in the maximum real estate tax values published annually by the Ministry of Finance, which amounts to 3.2%. In terms of 2B tax, the average rate of increase in the maximum rates accounts for 2.4%. The difference is only about half a percentage point, so it can be concluded that also in this case one can observe a high concordance between the average rate of increase in average tax rates in the surveyed municipalities and an average rate of increase in the maximum allowable rates.

Table 2. Average rates of examined tax in 2010-2015

Type of indicator / Year	1A tax							2B tax					
	2010	2011	2012	2013	2014	2015	2010	2011	2012	2013	2014	2015	
a)	0,64	0,65	0,70	0,73	0,74	0,75	18,03	18,24	19,05	19,52	19,77	19,78	
b)	3,1%							1,9%					

Legend:

- a) Average tax rates from 14 urban municipalities of the Małopolska region (in PLN)
- b) Average rate of changes in rates

Taking into account the whole study period, urban municipalities were establishing their rates in relation to the maximum rates ranging from 64.4% to 100% in terms of 1A tax and from 76.1% to 100% in the case of 2B tax. One may try to detect certain tendencies to determine the amount of real estate tax rates in relation to the maximum possible values. As far as 1A tax is concerned, over the whole study period one can distinguish the municipalities that were establishing their real estate tax rates below 70% of the maximum possible values, which cannot be seen in the case of 2B tax. In both studied taxes, a vast majority of municipalities set their rates in the range of 80-90% as compared to the maximum possible rates.

4. Conclusion

The real estate tax is for many municipalities, especially the urban ones, the most important local tax. Particular attention should be given to tax rates linked to running a business activity, because they can cause inflow of entrepreneurs or, on the contrary, discourage them from starting and running their own business in a particular municipality. A conscious tax policy, as well as legible and visible strategy of establishing tax rates helps to avoid uncertainty among entrepreneurs. No uniform, long-term strategies of establishing examined real estate taxes were noticed during the study. It may seem that decisions regarding changes in tax rates and the amount thereof are being made at the time the municipalities plan a budget for the following year. A proper manipulation of rates gives municipalities the opportunity to fill any budget shortfalls by increasing real estate tax rates. Two of the surveyed municipalities stand out slightly compared to others. The Bukowno municipality uses the tactics of increasing the real estate tax each year by small values. This strategy is very clear and enables the entrepreneurs to estimate with great accuracy the future costs of real estate tax in subsequent years. Another municipality that stands out from the rest is the Municipality of Bochnia that during the entire study period had the lowest tax rates of all examined municipalities. The strategy of low rates may attract entrepreneurs, who value the costs related to such tax. The study has revealed that most of the urban municipalities in the Małopolska region do not have clear, long-term strategies in establishing real estate tax rates. The problem of lack of clear strategies is therefore another issue worth consideration. The analysis of the subject of municipal councils meetings could also shed more light on the motives of decisions made in terms of establishing real estate tax rates. An interesting phenomenon that is worth examining appears to be the strategies of the urban municipalities of Bukowno and Bochnia, as well as the impact of these strategies on the budgetary revenues, and the influx of new entrepreneurs and investments.

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