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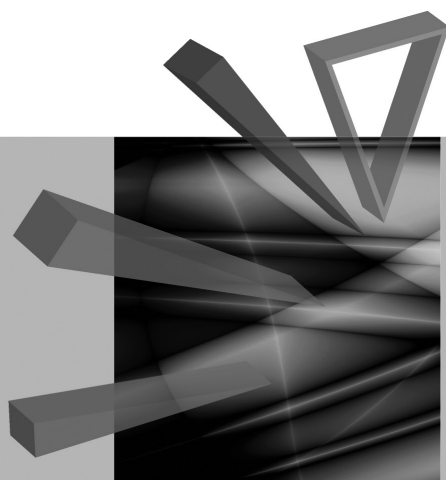
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# **Local Economy in Theory and Practice**

## **Local Development Governance Aspects**



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## **POLISH SYSTEM OF PROPERTY TAXES – PROPERTY APPRAISAL**

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**Summary:** This paper discusses the Polish system of property taxes and charges with an emphasis on the role of property appraisers in the process of property valuation. The paper is divided into three main sections. The first section discusses the theoretical aspects of the property tax system, the second overviews different categories of property taxes and charges, and the third presents the legal requirements and appraisal principles that apply in the process of calculating the applicable taxes.

**Keywords:** property tax, value of property, property appraisal.

### **1. Introduction**

The Polish legal system comprises various civil law and public law taxes applicable to real estate related to passive ownership (property is used to satisfy the owner's private needs), as well as property improvements which enable the owner to obtain a higher return on the investment. Taxes are also levied on traded property, and they are specified in contracts and agreements which transfer the rights to property ownership and use. Taxes constitute a liability for the parties to a property transaction, and they are a significant source of revenue, mainly for the State Treasury and municipalities. Property appraisers play an important role in the process of determining the value of real estate taxes and charges. In most cases, expert appraisal reports are formally required for the determination of the appropriate legislative charges.

### **2. Polish system of property taxes – theoretical aspects**

The overall set of fees and charges that arise from legal regulations and relate to legal events directly applicable to real property form the *system of real property taxes*. The discussed system has an open character, i.e. it is part of a property system covering the subjective and objective elements of the property market as well as their mutual relations [Bryx 2006, p. 83]. The subjective elements of the property system are the

investors, developers, lenders and support service providers, namely notaries, property appraisers, property agents, etc. [Kucharska-Stasiak 2006, p. 54]. The objective element of the real property system comprises a general set of laws applicable to real estate, including proprietary rights (ownership, perpetual usufruct, cooperative ownership rights to an apartment) and obligations (lease, tenancy). The institutional and legal environment accounts for land and mortgage registers, property cadasters, etc. Property taxes can be divided into four main groups, subject to the legal status of taxable property (see Table 1).

**Table 1.** Polish system of property taxes – classification

Group I	Group II	Group III	Group IV
Tax on the possession of property	Tax on property improvements	Tax levied on the owner for making the property available to a third party	Tax on legal transactions involving property
property tax	planning fee	selling price	tax on civil law transactions
agricultural tax	betterment levy	perpetual usufruct charges	inheritance and donations tax
forest tax	fee for excluding farmland / forests from production	permanent management charges	personal income tax
	stamp duty	lease and tenancy rents	corporate income tax
		usufruct charges	VAT
		servitude charges	notarial fees
		lease payments	court fees

Source: own elaboration.

The system of property taxes has to meet seven criteria in order to fulfill its functions effectively. They are: stability, efficiency, economic efficiency, administrative simplicity, flexibility, political responsibility and fairness [Stiglitz 2004, p. 550].

Various approaches can be used to classify property taxes. The main criteria adopted in the classification of property charges are:

- legal nature of property taxes (taxes payable under the civil law and the public law),
- manner of payment (one-off fee and periodic fees),
- collecting entity (taxes which constitute public and private revenue),
- territorial coverage (local and national taxes),
- formal grounds (based on the value or price of property, based on physical attributes),
- obligation to acquire a property appraisal report (refer to Section 3).

The main function of property taxes is the capital (fiscal) function – property charges are a source of revenue for both public and private entities. Property

taxes also have an economic function – by exerting a stimulating or an inhibitory effect on market actors, taxes influence consumers’ and producers’ decisions, and they contribute to changes in demand and supply on the market [Mastalski 2001, p. 10]. The social function of property taxes is a derivative of the two preceding functions. By influencing living and working conditions, property taxes initiate or inhibit certain behavior and act as catalysts of social processes. An environment conducive to property purchase (e.g. income tax breaks, inheritance and donation tax allowances) encourages young people to buy their first home. On the other hand, the high cost of court proceedings (court fees) may prevent many people from pursuing their rights in court.

Taxes levied in virtue of the possession of property include property tax, agricultural tax and forest tax. The payment of property taxes results from the “passive” possession of property. Every land parcel in Poland falls subject to one of the above taxes.

Property improvement taxes relate to administrative actions (procedures) concerning real property pursuant to the provisions of the public law which lead to the betterment (increment in value) of real property.

Taxes levied on property owners in virtue of making the property available to a third party cover the revenue generated by entities (private and public) in virtue of managing the owned property. These charges result from civil law relations and with regard to privately owned property, they are governed by the provisions of private law, mostly the civil code (property rights and obligations). The regulations applicable to property owned by public entities contain public law provisions stipulating the terms on which property may be managed by the above entities.

Taxes levied on legal transactions involving real property include public levies charged directly on legal transactions involving property, including the transfer of ownership rights to real property (e.g. contracts of sale), the conclusion of contracts which establish obligations (e.g. lease), the establishment of limited property rights (e.g. mortgage) and court proceedings (relating to land and mortgage registers).

### **3. Property appraisal for determining the amount of property tax**

A property appraisal may be required for determining the amount of the property tax due. In this case, a property appraisal is obligatory. In many cases, the acquisition of a property appraisal report is optional, and this group of property taxes includes public levies which constitute a source of revenue for the State Treasury and municipalities. To prevent taxpayers from underestimating the declared value of property, the legislator has introduced this tool to enable tax authorities to verify the real value of property based on an expert appraisal. Finally, there is a small group of taxes which are calculated without the involvement of property appraisal information (see Table 2).

**Table 2.** Classification of property taxes in view of the legal obligation to acquire a property appraisal report

Taxes which require a property appraisal (obligatory appraisal)	Taxes which may require a property appraisal (optional appraisal)	Taxes which do not require a property appraisal (no appraisal)
planning fee	tax on civil law transactions	agricultural tax
betterment levy	inheritance and donations tax	forest tax
selling price of public property	value added tax (VAT)	property tax (land and buildings)
perpetual usufruct charges	property tax (structures)	stamp duty
permanent management charges	personal income tax	notarial fees
fee for excluding farmland / forests from production	corporate income tax	
	court fees	
	selling price of private property	
	servitude charges	
	usufruct charges	
	lease and tenancy rents	
	lease payments	

Source: own study.

When assessing the value of property, an appraiser complies with legal regulations, professional standards, acts with due diligence and observes the provisions of the professional ethics code and the principle of impartiality. Appraisal methods and techniques are selected by the purpose of the appraisal, property type and location, designated status in the local zoning plan and condition of property as well as information about the prices, revenue and attributes of similar properties. Detailed provisions concerning the type and condition of the valued property, schedules of condition, prices and appraisal methods are found in the Regulation on Property Appraisal and legal acts regulating different types of property taxes.

Under Polish law, the amount of property tax is calculated based on the *fair market value of property*. Pursuant to the provisions of art. 151 section 1 of the Act on property management, *fair market value of property* is the most probable price of property that can be obtained on the market, and it is determined based on transaction prices on the following assumptions: the parties to the agreement acted independently, they were not acting under coercion, they were willing to conclude the agreement, sufficient time has passed to display the property on the market and negotiate the terms of contract. The concept “the most probable price of property” means the amount you can get in a market transaction. The concept “can be obtained on the market” means that the value of the property is the estimated amount rather than a pre-determined or actually paid price. The definition of the market value of the



**Table 3.** Legal requirements and appraisal principles for calculating property taxes and charges

Tax	Taxable base	Legal requirements and appraisal principles
1	2	3
Planning fee	Increment in property value following adoption/amendment of local zoning plan	The increase in value accounts for the difference between the value of property determined based on its zoning designation after the adoption of the local zoning plan and the value of property determined based on its zoning designation before the adoption of the plan or the actual manner of property use before the adoption of the plan. The condition of property is assessed on the day the zoning plan was adopted/amended, and the price of property – on the date the property was sold. Constituent elements of property are not taken into account.
Betterment levy in virtue of property division	Increment in property value resulting from division	The value of property before and after division is determined based on prices valid on the day the decision requesting the payment of the betterment levy was issued. The condition of property before division is assessed on the date the decision approving the division was issued, and the condition of property after division – on the date the decision approving the division became final and binding or on the day a court decision entered into force. Constituent elements of property are not taken into account. If the division led to the separation of land parcels assigned for the construction or expansion of public roads, the value of property before and after the division is determined based on the property's area minus the area of land parcels assigned for road construction or expansion.
Betterment levy in virtue of property consolidation and division	Increment in property value resulting from consolidation and division	The value of property before consolidation and division is determined on the day the decision approving the consolidation and division process enters into force, based on the prices valid on the day the said decision entered into force. The value of property allotted as a result of consolidation and division is determined based on the condition and prices of property valid on the day the decision approving the consolidation and division process enters into force. The value of property allotted as a result of consolidation and division is determined in view of infrastructure networks scheduled for construction in the future. The value of devices, trees and shrubs for which indemnity has been paid is not taken into account when determining the value of previously owned property.
Betterment levy in virtue of infrastructure development	Increment in property value resulting from infrastructure development	The value of property before and after infrastructure development is determined based on prices valid on the day the decision requesting the payment of the betterment levy was issued. Constituent elements of property are not taken into account when determining the value of property before and after infrastructure development. The value of property after infrastructure development is determined in view of the distance separating the property from the infrastructure device or network and the terms of access to the utility service.
Selling price of public property	Property value	The price in the first auction shall not be lower than the appraised value of property. The value of property is appraised on the date of property sale. The assessment approach and method is selected by the property appraiser in view of the purpose of the appraisal, property type and location, designated status in the local zoning plan, condition of property as well as information about the prices, revenue and attributes of similar properties.
Perpetual usufruct charges	Property value	The price of undeveloped land to which the right of perpetual usufruct is established and changes in the relevant charges are determined based on the value of property, as an object of proprietary right, with the use of a comparative approach. If the property to which the right of perpetual usufruct is established constitutes developed land, the value of that property, as an object of proprietary right, is stated separately for the land, buildings or parts thereof and other structures. The value of property is determined based on the condition and price of property valid on the day the right of perpetual usufruct is established or based on the condition and price of property valid on the day the relevant charges are modified.

1	2	3
Permanent management charges	Property value	The price of property to which the right of permanent management is established and modifications in the relevant charges are determined based on the value of property as an object of proprietary right. The value of property is determined jointly for the land and its constituent elements. The value of buildings and structures whose development was financed by the entity or which were purchased by the State Treasury or a territorial government is not taken into account during the determination of the value of property to which the right of permanent management is established. If the property to which the right of permanent management is established is held in perpetual usufruct, the value of that property shall account for the value of the right to perpetual usufruct and the value of buildings and structures which constitute separate property.
Fee for excluding land from production – entitlements	Value of land for reducing the fee	The entitlement will be reduced by the value of land determined based on the prices quoted on the local property market on the day the land was excluded from production.
Property tax levied on structures and parts thereof	Initial value of fixed assets	The value stipulated in income tax regulations, stipulated as of 1 January of the tax year, which constitutes the basis for calculating fixed assets depreciation in that year, not reduced by depreciation expenses, and with regard to fully amortized structures – their value as of 1 January of the year in which the last depreciation charge was written off.
Inheritance and donations tax	Value of acquired objects and proprietary rights	The value of acquired objects and proprietary rights minus encumbrances and debts (pure value) determined based on the condition of objects and proprietary rights on the day of acquisition and market prices on the day the tax liability was incurred. The above value is adopted in the amount declared by the benefactor if it corresponds to fair market value. Market value is determined based on average prices quoted in market transactions that involve objects of the same type and quality, in view of their location, condition and wear, and based on average prices quoted in market transactions that involve proprietary rights of the same type, on the day the tax liability is incurred.
Tax on civil law transactions	Value of the object of civil law transactions	The market value of an object of civil law transactions is described based on average prices quoted in market transactions that involve objects of the same type and quality, in view of their location, condition and wear, and based on average prices quoted in market transactions that involve proprietary rights of the same type, on the date of the civil law transaction, without deductions in virtue of encumbrances or debts.

Source: own study.

property is also included in the standards of professional valuers – National Standard Valuation Primary No. 1.

The appraiser has to indicate two important dates in the valuation process: the date on which the property's condition was assessed and the date on which the property's price was determined. The condition of the real property is evaluated in view of its development status, legal status, technical condition, availability of utility services as well as its surroundings, including the size, type and degree of urbanization of a given location. The date on which the property's condition is assessed is strictly defined by legal provisions, and it is a key element which determines the validity of an appraisal report. In many cases, the above date is easily determined because the date of physical assessment falls close to the date on which the appraisal report is developed (e.g. in reports prepared for the purpose of calculating the tax due on

perpetual usufruct rights). For the needs of determining other types of property taxes, however, the condition of the property has to be assessed on the date of a historical event, which proves to be more problematic. For example, to calculate the amount of betterment levy due upon the division of property, the condition of property has to be assessed on the day the said decision was issued and the date on which it entered into force. The main difficulty is the lack of reliable information about the property's condition in the past. The most reliable sources of such data are officially certified statements, descriptions and reports.

The date on which the value of property is assessed is also strictly defined by the law (e.g. for calculating the amount of betterment levy due upon division of property, it is the date on which the decision imposing the levy on the property owner was issued), and it is generally consistent with the date of the appraisal report.

Property appraisal for the purpose of calculating the amount of property tax is based on a comparative approach. A property appraisal report is obligatory in the process of determining selected property taxes and charges (§ 49 and § 28 of the Regulation on Property Appraisal). The legal requirements and appraisal principles for selected types of property taxes are described in Table 3.

#### **4. Conclusions**

Property taxation occupies an important place on the market, and it is related to vital areas of the economy such as the possession of property rights, the management of public property resources, property development, property transactions and property administration. Property valuation for taxation purposes is a socially sensitive issue. The role and significance of real property charges is growing as the property market reaches new phases of development. All professionals in the area of property management, valuation, administration and sales must have a working knowledge of the applicable charges. A sound knowledge of real property charges facilitates and increases the effectiveness of the decision-making process, and it enhances the quality of the services rendered by property market professionals. Property taxes are an important item in household budgets, and they significantly affect the financial performance of businesses.

#### **References**

- Act dated 28 July 1983 on the inheritance and donation tax, Journal of Laws of 2009, no. 938, item 768, as amended.
- Act dated 12 January 1991 on local taxes and charges, Journal of Laws of 2010, no. 95, item 613, as amended.
- Act dated 3 February 1995 on the protection of agricultural land and forests, Journal of Laws of 2004, no. 121, item 1266, as amended.

- Act dated 21 August 1997 on property management, Journal of Laws of 2010, no. 102, item 651, as amended.
- Act dated 9 September 2000 on the tax on civil law transactions, Journal of Laws of 2010, no. 101, item 649, as amended.
- Act dated 27 March 2003 on spatial planning and management, Journal of Laws of 2012, item 647, as amended.
- Bryx M., *Rynek nieruchomości. System i funkcjonowanie*, Wydawnictwo Poltext, Warszawa 2006.
- Kucharska-Stasiak E., *Nieruchomość w gospodarce rynkowej*, Wydawnictwo Naukowe PWN, Warszawa 2006.
- Mastalski R., *Prawo podatkowe*, Wydawnictwo C.H. Beck, Warszawa 2001.
- Powszechne Krajowe Zasady Wyceny (PKZW), Polska Federacja Stowarzyszeń Rzeczoznawców Majątkowych, Warszawa 2007.
- Regulation of the Council of Ministers of 21 September 2004 on property appraisal and developing appraisal reports, Journal of Laws No. 207, item 2109, amend. Journal of Laws of 2005, no. 196, item 1628; Journal of Laws of 2011, no. 165, item 985.
- Stiglitz J.E., *Ekonomia sektora publicznego*, Wydawnictwo Naukowe PWN, Warszawa 2004.

## **POLSKI SYSTEM OPŁAT OD NIERUCHOMOŚCI – PROBLEMATYKA WYCENY**

**Streszczenie:** Niniejszą publikację poświęcono zagadnieniu podatków i opłat dotyczących nieruchomości obowiązujących na terytorium Polski. Głównym celem pracy jest przybliżenie problematyki roli rzeczoznawcy majątkowego w procesie ustalenia ich wysokości. Realizację celu głównego przeprowadzono w trzech etapach: omawiając aspekty teoretyczne opłat od nieruchomości; prezentując krótką charakterystykę grup opłat; przedstawiając uwarunkowania prawne i zasady wyceny nieruchomości na potrzeby ustalenia wysokości opłat.

**Słowa kluczowe:** opłaty od nieruchomości, wartość nieruchomości, wycena nieruchomości.