

FISCALISM AND ENTREPRENEURSHIP IN POLAND

In article influence tax system on entrepreneurship in Poland is explored. The practice of the using the progressive tax rates and their influence upon development entrepreneurship are explored. Trends of the development of the value added tax are considered.

Key words: *small and average enterprises, tax, value added tax, enterprise.*

1. Introduction

Small and medium enterprises, or rather small and medium entrepreneurs are, in accordance with the Regulation of the European Commission, micro, small, and medium-sized businesses.

«The category of micro, small and medium-sized enterprises (SMEs) is made up of enterprises which employ fewer than 250 persons and which have an annual turnover not exceeding 50 million euro, and /or an annual balance sheet total not exceeding 43 million euro» [4].

Table 1

Criteria for the Breakdown of Companies

Enterprises	Micro	Small	Medium
Employment	0–9	10–49	50–249
Net Annual Turnover	up to 2 million Euros	up to 10 million Euros	up to 50 million Euros
Total Assets in the Balance Sheet	up to 2 million Euros	up to 10 million Euros	up to 50 million Euros

Source: Articles 104–106 of the Act on Freedom of Economic Activity of 2 July 2004.

The sector of small and medium-sized enterprises in Poland has a majority share in the business sector because it stands to 99% of all Polish enterprises.

As it is commonly known, taxes are paid on income, i.e., this part of income that corresponds to the surplus in the revenue over costs incurred for the purpose of earning income in a given fiscal year. For example, donations to public benefit organizations and for purposes of religious worship is tax deductible up to the amount not exceeding 10% of income. Collection of income tax from legal persons is made in the form of monthly advances paid throughout a given tax year. Taxpayers should submit their tax returns reporting the amount of income (loss) attributable to the given tax year until the end of the third month of next year and shall pay any tax due or the difference between the tax due on income reported in the return and the amount of advances due for the period from the beginning of the year until the same date [2].

Main tax categories paid by businesses are direct and indirect, i.e., VAT and excise duties.

Currently, a businessman may settle his tax duties in different ways; he/she can choose a progressive scale, or flat tax at 19% rate, and in some cases, he/she may opt for so called tax card or a lump sum payment.

The choice of form of taxation, and changes in tax regulations are a very strong determinant of safe operation of the SME sector in Poland.

2. Business tax settlement methods

Tax card: is a simplified form of taxation connected with the type of business. Taxpayers settling their tax obligations based on the tax card do not have to keep books, submit tax returns, or declarations to report the amount of their earnings, nor pay tax advances.

The amount of income tax for business using tax card is determined as a monthly amount whose value is specified in the annex to the Act and provided the conditions as to the scope of business operations defined in the Act are met, in the annex therein and the regulations of the minister of finance. The Act specifies the categories of business that are eligible to enjoy taxation in the form of tax card. They include services or manufacturing and service operations provided the employment does not exceed a certain limit; among others, they are generally retailers selling: food, beverages, tobacco products as well as operators providing transport services rendered with one vehicle, or some entertainment services.

Lump sum taxation: a lump sum tax is paid on recorded revenues from non-agricultural business activities, including businesses organized as partnerships or companies. The Act of 2004, in its provisions referring to the lump sum tax, contains a catalog of services whose provision precludes a taxpayer from lump sum taxation on recorded income and only sets a threshold of income below which this form of taxation is allowable. The condition of its eligibility is that earnings should not exceed the PLN equivalent of 150,000 Euros. The advantage of this form of taxation is that it does not entail the category of costs incurred to generate earnings; taxpayers are not obliged to keep books, and only the volume of sales is recorded. The rates of the lump-sum income tax – unlike the tax card – are expressed as percentages: 8.5%, 5.5% or 3% whose exact amount would depend on the type of business; moreover it is allowable to expand business operations applying the existing rates in a given fiscal year [3].

Flat tax is the flat tax proponents rightly argument that the progressive tax on profit from business activities hampers development. However, in Poland, there is a large group of businesses covered by the flat tax system, i.e., a system with a single tax rate regardless of the amount of income earned. In Poland, the flat tax amounts to 19%. The disadvantage of this system to account for tax liabilities with the fiscal authorities is ineligibility to use tax credits or deductions when this method for tax settlement is chosen.

Progressive scale – settlement based on commonly applied rules. In the beginning of 2009, the progressive scale was amended from a three-tier of: 19%, 30%, and 40% to a two-tier of: 18% and 32%. The above change in tax rates combined with the amendment of tax thresholds encouraged many SME businessmen to switch to this form of taxation to since settling his/her dues applying a progressive scale, a taxpayer may benefit from reliefs he/she is entitled to which in many cases, turns out to be more favorable for small businesses. In 2010–2012, the tax rates of 18% and 32% remained unchanged.

Table 2

Tax Scale for 2010–2012

Tax Scale for 2010–2012		
above	up to	the tax is
–	85,528	18% minus the deductible amount of 556.02 PLN
85,528		14,839.02 zlotys + 32% of the excess over 85 528 PLN
Legal basis: Art. 27 paragraph 1 of the Act on Personal Income Tax, as amended by Art. 1 point 28 letter a) in conjunction with Art. 22 point 3 of the Act amending the Act on Personal Income Tax and certain other acts of 16 November 2006 (Journal of Laws No. 217, item 1588)		
Annual income that does not cause any obligation to pay tax is: 3,091 PLN.		
The non-taxable annual amount is: 556.02 PLN		
The monthly non-taxable amount is: 46.33 PLN		

Source: www.podatki.egospodarka.pl

Table 3

Limits in 2010–2012

Valid limits in 2010–2012		
The limit	Limit in Euro 2010–2012	PLN equivalent in 2010
The amount of revenue earned in 2009 eligible of the lump sum taxation on the recorded income*	150,000	633,420.00
The amount of revenue earned in 2009 eligible for quarterly settlement lump sum tax*	25,000	105,570.00
The income from rental is taxed on a flat rate basis of 8.5%***	no limit	no limit
The amount of revenue earned in 2009 causing the obligation to keep books**	1,200,000	5,067,120.00
The threshold for income plus tax due for small taxpayer under the Act on Personal Income Tax*	800,000	2,702,000
The limit of deductions under the one-off depreciation of fixed assets	100,000	422,000.00
*exchange rate published by the NBP as of October 1, 2009. (1 euro = 4.2228 PLN) **exchange rate published by the NBP as of September 30, 2009 (1 euro = 4.2226 PLN) *** According to the amended provisions of the Act on Lump Sum Income Tax on Certain Revenues Earned by Individuals of November 20, 1998, amended by the Act of 17 December 2009 amending the Act on the Protection of the Rights of Tenants, Municipal Housing Stock and the Civil Code, and certain other acts, any taxpayers who, in 2010, decide to submit their income generated from the lease agreements concluded outside their business. to the lump sum tax on recorded income, regardless of the amount of revenues, will pay a lump sum at a rate of 8.5%.		

Source:www.podatki.egospodarka.pl

3. Vat tax in business operations

Value Added Tax (VAT) is a multi-phase tribute. The rule applied in this tax system on goods and services is to impose a universal consumer tax on good and services directly proportional to the price of goods and services, irrespective of the number of phases through which these goods and services have flown. The VAT system is applied from the very beginning of the chain up to the retail level and is based on the mechanism of «taxation -deduction», which means that at every level of trade, a deduction is made of the amount of tax charged in the price of purchased raw materials, semifinished products, services, etc. from the amount of tax calculated on sales made.

The functioning of tax on goods and services (VAT) is based on the following players:

- a) a «payer», or any entity engaged in business activity,
- b) a consumer, any entity which is not a registered VAT payer,
- c) an entity which is exempt from VAT.

The consumer has no right to deduct the VAT that accrued in earlier stages of production and trade, thus bears the full burden of the tax included in the price of goods or services purchased. The payer shall pay the surplus tax on his/her sales over the tax he/she paid on the purchase price of goods and services, i.e. the tax accrued on his/her own value added. It determines the difference between the tax due and accrued. Ultimately, the burden of this tax will be borne by a fiscal purchaser who is not able to deduct the amount of tax paid that was attached to the product price. The amount of this tax is thus dependent only on the final net value of a good (value added at each market stage) rather than the number of phases of trade.

The general nature of VAT causes that all goods are subject to a uniform tax burden, and the consumer has no choice between goods subject and not subject to

VAT tax. Its universality reinforces the principle according to which only the tax, which directly increased the cost of taxed operations is eligible for deduction, and the principle of applying the tax on goods and services provided to satisfy one's own needs subject to taxation. An important feature of value added tax is also its neutrality with respect to imports and exports, based on the principle of territoriality. Only the production and sales of goods and services carried out in a given country are subject to taxation. This means that all imports are taxed based on rules prevailing in country, while exports of goods and services is not taxable. This way, the exports shall be entitled to a refund of tax accrued in the phase preceding export sales.

Therefore VAT should be neutral for businesses since it applies to the final purchaser of a good. The impact of this tax on businesses operating in different sectors of the economy varies from industry to industry. However, looking at the economic reality, it sometimes seems to be different. It is influenced by hidden economy which avoids the VAT system or operates within it. In practice, companies may be interested in not being subject to the VAT system since they need to keep compulsory records. Therefore, they may be inclined to operate in the hidden zone where their economic reality will not be subject to recording.

The main advantage of this tax is that hardly anyone is aware of the tax burden borne. Its collection is fast and provides a regular flow of money to the state budget. Unfortunately, it is not connected with the taxpayer's liquidity and inhibits his/her inclination to take risks in business. The most visible actions relating to informal economy under the system of tax on goods and services include:

- a) overstating input tax by 'buying' bogus invoices
 - b) non-reporting sales made through cash registers or not making invoices,
 - c) conning VAT returns by overestimating input VAT
 - d) making fictitious exports to cone returns
 - e) using of invalid VAT rates in order to reduce tax liability,
 - f) abnormalities in determining the tax base, and location or time of tax obligations,
- as well as in justifying the use of subjective and objective tax exemptions.

Since 1 May 2004, when the new Act on Tax on Goods and Services was enacted, the Act on Tax on Goods and Services of March 11, 2004 (O.J. No. 54, item 535), new varieties of actions in the hidden sphere have been observed; they are derivatives of the tax system on goods and services [5]. They include, for example:

- a) use of intra-Community supplies in order to shift fictitious tax obligation abroad,
- b) applying correct tax rates, including the right to use 0% rate, to intra-Community transactions.

The basis to determine the volume of sales for the purposes of the tax on goods and services are: invoices, records of the cash register and a record of turnover in kind. Documenting purchases of goods and services with invoices can be risky because, if a purchase is made from an unregistered company or company that has not recorded the invoice to its books of sales, the buyer will not be able to deduct tax. Tax authorities do not prosecute those who issue fake documents but penalize those who have made a legal purchase instead.

Sales to general public are recorded using fiscal cash registers. Exceeding of certain threshold results in a compulsory installation of a cash register and need to record all sales with it. The threshold applies equally to all businesses regardless of whether it is a small, medium, or large enterprise. Despite the fact that small businesses generally have small turnover and often struggle to stay in the market, they are forced to purchase and install cash registers. Fiscalization of sales through cash register is often a time a significant financial burden for companies with low incomes and sales. On the other hand, sales recording through physical inventory taking gives too much flexibility to taxpayers in determining the amount of cash inflows. The correctness of amounts recorded and their coincidence with actual sales depends exclusively on

their personal integrity. The tax amount is proportional to the value of sales shown in the records, thus often a time the sales reported for taxation is unrealistic. The system is also a source of various types of fraud and manipulations, such as: using false documents to justify expenditures, or inserting expenditure documents that are not related to business. Since it is not understandable and clear to a large group of taxpayers, they often commit formal and essential errors which may result in costly conflicts and disputes with tax authorities on the content and scope of interpretation of tax legislation and the amount of tax burden to be levied.

The basic VAT rate was 22% in Poland. However, this rate was changed to 23%. It seems to be an increase by only one percentage point, for many entrepreneurs; however, it will mean incurring extra costs, which is not likely to favor their business operations. Changes in tax regulations often undermine the safety of running a business, primarily in the SME sector.

4. Conclusion

Over many years, since the political systemic changes in Poland, there have been lots of changes in the tax structure. The most important changes occurred in 1991-1993 since the tax system of a centrally planned economy was no longer suitable for the market economy principles introduced then in Poland.

In compiling tax systems their authors have to have in mind the inflows to the state treasury, on the one hand but on the other, taxpayers' burdens, and therefore the proportions between the two must be respected. It should also be taken that this tax is universal and compulsory which means that every taxpayer, who has found him/herself in a particular legal situation covered by the tax law, is obliged to pay it, and that avoiding the tax may lead to criminal sanctions. The main point is to introduce or amend a tax in such a way that it does not reduce effectiveness of those who are obliged to pay it, and looking from the perspective of the state budget, that it gives a possibility to fund social needs arising from the obligations of the state towards its citizens.

Every year, the economists retire the question and repeat the debate about what the tax system should look like in Poland. The most common problem that emerges with this respect is a still high proportion of so-called gray zone in the Polish economy. This immediately prompts a question whether lower tax brackets encourage entrepreneurs to settle their fiscal obligations fairly, or increase employment abiding by the law. It is important that changes to the tax law are clear and transparent to entrepreneurs, because the tax law itself, problems of its interpretation, frequency of changes and tax rates are primary barriers to safe operation of enterprises in the SME sector in Poland. The inability to overcome this barrier is an often and important cause of getting out of business.

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У статті досліджено вплив податкової системи на підприємництво у Польщі. Досліджено практику використання прогресивних ставок оподаткування та їх вплив на розвиток підприємництва. Розглянуто тенденції розвитку податку на додану вартість.

Ключові слова: *малі та середні підприємства, податки, податок на додану вартість, підприємництво.*

В статье исследовано влияние налоговой системы на предпринимательство в Польше. Исследована практика применения прогрессивных налоговых ставок и их влияние на развитие предпринимательства. Рассмотрены тенденции развития налога на добавленную стоимость.

Ключевые слова: *малые и средние предприятия, налоги, налог на добавленную стоимость, предпринимательство.*

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