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DEVELOPMENT OF THE SYSTEM OF PUBLIC DUTIES. A LEGAL AND FISCAL STUDY

EWOLUCJA SYSTEMU DANIN PUBLICZNYCH. STUDIUM PRAWNO- PODATKOWE

ABSTRACT

Tax is a complex legal and economic category, conditioning the functioning of the state, affecting the entire economic circulation. The economic significance of the tax is related to the change in the income and property situation of the subjects paying the tribute. Payment of tax influences the decisions made by economic agents in the sphere of savings, consumer spending or economic decisions. Taxes are the primary means of collecting public revenue and financing expenditures. It should be emphasized that, from the point of view of the science of finance, any economic, legal phenomenon that has all the above-mentioned characteristics is a tax, even if the name used by the legislator indicates a completely different nature of the legal and economic relationship, e.g. customs duty, fee, contribution, *voluntary payment*, etc. There is a consensus in the literature that a tax should be characterized by six features: gratuitousness, compulsory, non-refundable, monetary form, generality and unilateral imposition.

STRESZCZENIE

Podatek stanowi złożoną kategorię prawną i ekonomiczną, warunkującą funkcjonowanie państwa, wpływającą na cały obieg gospodarczy. Ekonomiczne znaczenie podatku związane jest ze zmianą sytuacji dochodowej i majątkowej podmiotów opłacających daninę. Zapłata podatku wpływa na decyzje podejmowane przez podmioty gospodarujące w sferze oszczędności, wydatków konsumpcyjnych czy też decyzji gospodarczych. Podatki stanowią podstawowy sposób gromadzenia dochodów publicznych i finansowania wydatków. Należy podkreślić, że z punktu widzenia nauki finansów każde zjawisko ekonomiczne, prawne, które posiada wszystkie wymienione cechy jest podatkiem, choćby nazwa używana przez ustawodawcę wskazywała na zupełnie inny charakter stosunku prawnego i ekonomicznego np. cło, opłata, składka, *dobrowolna wpłata* itd. W literaturze przedmiotu panuje zgodność, co do tego, że podatek charakteryzować powinno sześć cech: nieodpłatność, przymusowość, bezzwrotność, pieniężna forma, ogólność oraz jednostronność nakładania.

KEYWORDS: *public tribute, tax, social systems, economic systems, fiscal policy, tax law*

SŁOWA KLUCZOWE: *danina publiczna, podatek, systemy społeczne, systemy ekonomiczne, polityka fiskalna, prawo podatkowe*

INTRODUCTION

Tax, in Latin *taxare*, means a coercive financial obligation imposed on a taxpayer (an individual or legal entity) by the state or its functionally equivalent. Nowadays, it is most often levied in monetary form, although in pre-capitalist times it was often implemented in kind. The fiscal goal was historically the primary objective that determined the introduction of taxes and the expansion of the system of fiscal burdens. *The struggle for and against state power becomes a fiscal struggle, and the memory of famous rulers is associated not so much with the battles or wars they won, but with ensuring the welfare of the state and society through economic and fiscal reforms* (Kosikowski, 1992).

In ancient times, fiscal tributes were levied only on certain segments of the population. The tax system in ancient Egypt (3200 BC) consisted of collecting – in kind to farmers – a portion of the harvest, craftsmen gave a portion of their products to the military and administration, and merchants paid tributes. It was a developed system of taxation, and taxes were the main source of income for the pharaohs. Taxes were paid in kind – peasants paid the tax due in grain and cattle, and craftsmen in the products they made. In the later period, around the 4th century BC, part of the taxes were collected in monetary form. In ancient Egypt 3000-300 BC, the Pharaoh, the supreme directing authority, forced his ministers of visers to organize 1,000 scribes for the collection of taxes from the entire territory of the empire. It was the responsibility of citizens to declare their livelihood, their income. Tax evasion was punishable by cruel flogging or a slow and agonizing death. The penalty for tax debts was taking away part of the land, goods and product. Even then, taxes were progressive in nature and heavy punishment was threatened even by images in case of evasion (Grapperhaus, 2010).

The ancient Greeks were the first to establish simplified forms of direct taxation (quasi income type tax). Taxes were levied on so-called liberators (12 drachmas per man and 6 drachmas per woman) and a head tax (quasi head tax) paid for slaves by their owners (the slave was treated as a source of income). The Greek tax system also included a tribute in the nature of a wealth tax, called *eisphora*. Its amount depended on the size of one's wealth, with the principle of tax-free minimum (income minimum, based on the principle

of ability to bear the benefit) already in place. The tax was levied only on wealth exceeding the equivalent of 1,000 drachmas (Gajl, 1992).

In ancient Rome, in addition to war booty and tribute, various monetary benefits were introduced, and a special place in the system of public tributes was occupied by a land (property) tax, called *ugatio*. It was imposed on the land of the provinces subject to Rome. The size of the benefit depended on the quality of the land and the type of crops – arable land, vineyards, olive groves, forests, etc. The method developed by the Romans for determining the amount of land tax is used in many modern tax systems. In the Roman tax system (as in the Greek) there was a general inheritance tax, which included in its design exemptions of a familial nature and certain inheritance minimums free from taxation (Manteuffel, 2004).

Between the 6th and 3rd centuries BC. The Roman Empire changed its strategy for the operation of the tax system. Taxes from then on were divided into municipal and provincial, which was the first example of local taxation. Rome was characterized not only by a developed literature and art, but also by a great variety of taxes. In addition to taxes on land and income, there were taxes on fruit trees, vines and taxes on turnover (1%), slave trade (4%) etc. It should be mentioned that religious taxes were not linked to state budget revenues. This fact promoted the enrichment of the Church as an independent entity from the state, which later, as history shows, acquired enormous power and influence. Mostly religious taxes amounted to 10% of income, and from this came the name *tithe*, which was mentioned more than once in the Bible but was not an *invention* of Christianity. Earlier pagan tribes gave a tenth of their income to their spiritual leaders (Wyrozumski, 1984).

REASERCH METHODOLOGY

Legal and administrative sciences use typical methods found in the social sciences and humanities, i.e.: the study of documents (legal acts and judgments of administrative courts), comparative methods (expert opinions, legal opinions, analyses resulting from linguistic, grammatical and historical interpretation) and case studies. Induction was used as the main research method.

It involves drawing general conclusions or establishing regularities on the basis of analysis of empirically established phenomena and processes. It is a type of inference based on details about the general properties of a phenomenon or object. The use of this method requires the assumption that only facts can form the basis of scientific inference. These facts are real-life situations (social, legal, or organizational). Inductive methods include various types of analysis, expert opinion and scientific documents used in social research.

EVOLUTION OF TAXATION AND TAX CONSTRUCTION IN THE MIDDLE AGES AND AFTERWARDS

In the Middle Ages, taxes were of little fiscal importance, since the budget revenues of rulers came mostly from landed estates, monarchical privileges and customs duties. In the 15th century, a quasi-tax system developed in France and England. The first form of legal protection of private property from the risk of arbitrary seizure by the ruler was the English Magna Charta Libertatum, enacted in 1215 by John without Land under Runnymede. Formally it was a privilege having at the same time the characteristics of a contract between the king and his vassals. It limited the monarch's power, mainly in the fiscal field, guaranteeing that the imposition of new tax obligations, as well as growth, was possible only with the approval of the kingdom's council. A similar rule was enacted by the French States General in 1314, but in 1426, faced with a threat from England, Charles VII was given the power by the States General to impose new fiscal burdens in so-called *emergencies*, resulting in the abuse of this power by subsequent rulers. In 1576, the States General refused to allow Henry III to impose a tax, but the king succeeded in breaking their resistance. It was not until the Declaration of the Rights of Man and of the Citizen, passed in 1789, that Article 14 affirmed that *All citizens have the right directly or through their representatives to ascertain the existing need for a general tax, to authorize it freely, as well as to determine its amount, size, method of collection and duration*. The elimination of arbitrary and voluntary manipulation of the fiscal system by individual rulers, became an important factor affecting the development of national economies and a basic principle of modern states (Grappnerhaus, 2000).

Analysis of the process of evolution of the system of fiscal tributes allows us to put forward the thesis that the first tax constructions were specific. The concreteness and dependence of detailed taxes on certain facts gave them the mark of a certain objectivity, and human thinking at that time was object-oriented. The concreteness of detailed taxes was also associated with greater ease of imposition and enforcement. It was not until the end of the 15th century that merchants in Lombardy began to use general concepts of property and income in the modern sense. A treasury apparatus capable of constructing and enforcing general taxes also began to develop. The process of these changes was accompanied by the development of a monetary economy, as well as the gradual democratization of the early capitalist states. During this period, there was an apparent evolution in the structure of budget revenues, involving a dynamic increase in the share of tax revenues compared to other revenues, resulting in a radical change in the tax system.

EVOLUTION OF TAX CONSTRUCTION AND TAXATION THEORY IN THE POLISH LANDS

Taxes in Poland appeared when state structures were created. Since the main occupation of the serfs was cultivation of the land, the tax could only be given in kind. Taxes consisted of crops, domestic animals, forest fruits, among other things. Sometimes it happened that they were paid with animal skins or fish, but the type of tribute depended on the needs of the prince's court. In Poland during the First Republic, the nobility, in exchange for concessions to the kings, won for themselves (by negotiation) restrictions on the imposition of taxes on them. In 1291, in a privilege granted in Lutomyśl, Vaclav II pledged not to impose new taxes on the inhabitants of Malopolska, knights and clergy. Since taxes depended on weather or natural disasters, and the rulers wanted to protect themselves against a reduction in revenue, a tax called *poradlne* was additionally introduced. The amount of the new tax depended on the acreage of farmland owned by the subject. The name *poradlne* was replaced by a head tax. This occurred in 1374 when Ludwig of Hungary, in exchange for the recognition of the right to the Polish crown for his eldest daughter Catherine, granted privileges

to the nobility in Kosice exempting them from paying the (*poradlne*) tips tax. The unit of land measurement at the time was the *łan* patch(field), which was about 17 hectares. The amount paid by the nobility was set at 2 cents per *łan* tips. The rest of the population continued to pay 12 pennies (Uruszczak, 2021).

In the second half of the 15th century, Polish kings covered the costs of defending the country's borders. The main source was taxes from the Kingdom, and if the amount was not sufficient the king asked the nobility for financial assistance. A view emerged, which later found many supporters among the nobility, that the Kingdom should finance the defense of the borders on its own. The nobility was again exempted from paying taxes as a result of the adoption of the so-called Statutes of Nieszawa in 1454. All responsibility for state security fell to the king. Zigmund I the Old saw in the new tax system an opportunity for better functioning of the state. Expenses for the defense of the state were to be financed by fixed taxes imposed on the nobility, which was thus exempted from the obligation to take part in warfare. The amount of taxes depended on the wealth held by the nobleman. After Sigismund I the Old took power in 1506, the state treasury was empty (Krzywoń, 2011). Earlier King Aleksander Jagiellon, Zigmund's brother, had repeatedly incurred financial obligations from the nobility on pledge of state property, and this was done in accordance with the law. Sigismund I the Old rarely tried to ask for loans, despite the fact that the state's expenses at the time were considerable. During his reign, 1350 zlotys per year were borrowed while Aleksander borrowed an average of 34250 zlotys per year. Sigismund the Old succeeded in uniting many royal *domains* and giving them an orderly character. At the end of his reign, about 76 percent of the total property was under state control. What's more, the royal domains brought in more income, and qualified specialists began to work in the institutions dealing with state finances (Zientara, 2008).

The successor to the throne after Zygmunt the Old was his son Sigismund II Augustus in 1548. Unfortunately, during his reign, Poland's financial situation quickly deteriorated. 24% of the landed estate was abandoned and yielded no profit. An additional burden on the budget was the cost of reinforcing the defense forces against the impending invasion of Livonia by Ivan I the Terrible. Augustus, with the prior approval of the Sejm, had to incur obligations in the amount of 500 thousand PLN. In order to avoid similar situations in the future,

the Sejm in 1563 enacted a new type of tax called a quarta. The quarta was paid from the royal estate and regalia and amounted to one-fourth, or more precisely 20%, of gross income. Those who maintained abandoned manors were ordered to pay a quart of 60%. The quart was to be used primarily to maintain a permanent quartier army, which in peacetime numbered about 2,500 soldiers. The constancy of revenues necessitated the establishment of a public institution to control taxes. Revenues received from quarters in 1576-1586 amounted to 98 thousand PLN, and in 1587-1692 to 155 thousand PLN. However, the introduction of additional tax obligations did not allow the state to forget its budget problems. The annexation of Ukrainian territory to Poland significantly lengthened the line of Poland's borders and directly the number of soldiers needed to defend them.

Unfortunately, as time went on, revenues to the budget decreased. Reasons for this included an increase in corruption and negligence on the part of officials. After coming to power, Stefan Batory did not use his executive powers to embrace the emerging chaos. His advisors were people who were not in favor of financial and fiscal reforms, but only helped him win the crown. The magnates in high political positions wanted as much taxation as possible to be paid by other social strata, rather than an increased quarto. Therefore, they tried to have Batory removed from the financial affairs of the state. As a result, revenues belonging to the state were divided into two categories. The first included the so-called table estates intended for the king. They consisted of 15% of the total income from the kingdom, as well as regalia, income received from mines, customs duties and mints. The second included income from leases. Most of the revenue fed into the *pocket* of the nobility, and far less was collected as quarters. Under Zygmunt III Vasa, the monarch was deprived of the three parts of the quarters to which he was previously entitled. State estates were overseen by court treasurers i.e. they were outside the control of the Sejm. On the other hand, the nobility wanted property belonging to the Kingdom to be more connected to the state treasury. This soon happened when Wladyslaw IV in the *pacta conventa* in 1633 undertook to pay another quarta. Unfortunately, the value of the new quarter was much lower, as it was estimated to be set at what it had been half a century earlier. By the end of the 17th century, the old and new quarters accounted for 40% of revenue to the state budget, and 60% was paid by tenants.

TYPES AND FORMS OF TAXATION IN ANCIENT POLAND

Among some of the most sour indirect taxes in old Poland was the so-called *lanowe* tax. This was a tax paid on the acreage owned by the landowner, depending on the area owned, calculated in fields. It was paid most often by peasants belonging to the nobility and the clergy. The counterpart of the headland tax was the so-called shos, which was imposed on the bourgeoisie. The city was charged a certain amount and then it was within its scope to enforce it. Since the introduction of the headland tax, the amount of revenue to the budget depended on fertile crops and peace. Ideas to create a new tax were compounded by the threat from Sweden. However, it was only after the signing of peace with the Swedes in 1629 that the so-called *sub-money* was created. It was paid by every household until 1661. In the same year when *podymne* (chimney tax) came into effect, the total value of the new tax exceeded the value of the head tax by 74%. However, the popularity of the sub-money tax didn't last long due to the fact that the headman's tax was lower, and thus didn't bring in enough revenue, introducing chaos into the entire fiscal system. In addition, the disproportionate imposition reduced its efficiency. Another type of indirect tax was the head tax. It was first introduced in 1498 due to the threat from the Turks and Tartars. It was paid by every citizen. Unlike income tax, the basis was not income, but the person of the taxpayer. At first, the amount of head tax depended on the class division. Depending on occupation, income and position, 189 different tax groups were emptied. It brought considerably more benefits than the sub-tax or the poll tax because it was paid by all citizens except children under 10 years of age. It was used for the second time in 1520 as an additional means of financing the war against the Crusaders and a possible Tartar invasion. It was also introduced in 1590, 1662, 1673, 1674, 1676-8 and 1683. According to data from 1662, the total revenue from the *poll tax* amounted to 2.75 million zlotys, while in the previous fiscal year the poll tax brought in only 292 thousand zlotys. In 1717, the payment of poll tax became obligatory, according to rates set 40 years earlier. It was still in effect until 1775 and was directed only to the needs of the army. Another example of a direct tax was the *winter bread* so-called hibernium. In 1649-52 it was paid in kind, often later converted into money, as a subsidy to the pay. It was paid

by church estates and royal estates. The basis for its calculation was the acreage of land. While it was paid in kind, it was very often abused by the army, which inflated its amount and enforced its payment without any control. This led to opposition from the Diet and the establishment of a special commission to calculate the correct rate. The undoubted importance of hibernium was due to the fact that it was not among the taxes intended for the state. In a short period of time, a military treasury managed by hetmans was established.

All of the aforementioned direct taxes were calculated on the basis of acreage, owned house, cattle, and as in the case of the head tax directly on the person of the taxpayer. The Polish tax system was thus fairly primitive. It did not require extensive tax administration, however, without it no effective tax system can exist. The duty to pay taxes largely belonged to the rural part of society. The cities were less taxed, and the nobility remained exempt from taxes most of the time. The definite predominance of direct taxes over indirect taxes in Poland also existed in the second half of the 17th century. However, the importance of the latter should not be overlooked. *Czopowe* (barrels tax) was a tax imposed on beer, mead, vodka and wine. The nobility and the clergy were exempt from paying it, provided that the production of alcohol was for personal use. Until 1629, the amount of the suppository depended on the type of alcohol, and in later years on the price. The excise tax was introduced three times in 1657, 1659 and 1673 and was short-lived. Products that had a value of less than 5 cents were exempted from excise so that the poorest would not be affected. However, it never gained enough support from the Sejm and magnates to enable its permanent enforcement (Korobowicz, Witkowski, 2017).

THE FORMATION OF THE INCOME TAX STRUCTURE

A turning point in the history of public tributes was the introduction of income tax in England. Income tax thus has a relatively short history. The first taxes of a general nature that were introduced were property taxes, the essence of which was subject to taxation of all property owned, or some of its components. Because taxes of this type are characterized by simplicity and ease of application, and the fact that it is more difficult for taxpayers to hide assets than other objects of taxation, they did not require a complex tax apparatus, or a great deal of knowledge of tax collectors (officials). The prototype of the modern income tax was the tax introduced in England (excluding Ireland) in 1799 by Prime Minister William Pitt (the younger) to finance the war against Napoleon. When introducing this form of taxation, it was argued that it was a temporary construction and would be withdrawn once hostilities ceased. Voluntarily, the state withdrew this tax only once, namely in Great Britain after the end of the Napoleonic wars. The tax was abolished briefly in 1802 after the Peace of Amiens, only to reappear in 1803 in the public tribute system at 5% (the revenue from this tax was at a similar level as at the 10% rate, thanks to the lowering of the lower limit from £60 to £50, as a result of which the number of those paying the tax doubled) (Wołowiec 2003, Wołowiec, Skica, 2013).

The United States of America first tried to introduce this tax in 1812, modelled then on the British law of 1798. Rates were even set at 8 and 10 percent (for incomes over £60 and over £200, respectively). Work was nearing completion in 1814, but after the signing of the Peace of Ghent in 1815, the need for this tax disappeared and it was abandoned. As in the case of Great Britain, the income tax was introduced in 1861 to finance the war effort (the US Civil War). Time pressures caused by the urgent need to seek additional sources of budget revenue prevented a longer discussion of the rationale for this tax. The tax law was signed by President Lincoln on July 1, 1862, imposing a 3% tax on income above \$600 and 5% on income above \$10,000. In 1864, tax rates were increased and Americans paid a tax of 5% on income above \$600, 7.5% on income above \$5,000 and 10% on income above \$10,000. The original design of the U.S. income tax was characterized by a low tax rate, simple construction and a high tax-free amount (Wołowiec, 2020).

In Italy, income tax was introduced in 1864, in Germany – in 1891, with the German income tax design being different from the English cedular (called analytical) tax concept. A cedular tax, is a type of taxation that involves separately taxing each type of income of taxpayers. It allows the taxpayer to favor some types of income and discriminate against others by setting differential tax scales and rates. However, it makes it difficult to apply progressivity to taxpayers with income from several sources. In 1891, a so-called global income tax was developed and introduced in East Prussia. This tax covered all individual income, regardless of its source. In the global tax there is no division of the tax base into income from individual sources, but it is the sum of income. The tax base in this system was the so-called pure income, but in some cases (for example, in the case of taxation of wage labor and self-employment), the way of determining income from individual sources of income could be differentiated. Austria, introduced a global income tax on its own territories in 1896-1898. The pre-war Polish state income tax and the current personal income tax also had a global character. Other European countries began to introduce income taxes into their tax systems as a result of the need to seek additional revenue to finance World War I expenses (Wołowiec, Bogacki, 2021).

In France and the Netherlands, income tax was introduced in 1914, and in Belgium in 1919. In France, several sources of revenue were distinguished. Income from labor and wages and social benefits, industrial and commercial income, income from agricultural production, income from movable capital and income from real estate were taxed. Each of these categories was taxed separately and proportionately. The general income tax was introduced in 1917 and was a progressive tax. In 1948, the personal income tax was divided into two parts, combining the two tax solutions of 1914 and 1917. A proportional rate was applied to each category of income and revenue, in accordance with the 1914 solution (global income tax), and an additional progressive rate was introduced, as in 1917 (cellular taxes). With the reform of the tax system between 1914 and 1917, there was an increase in the non-fiscal function of the income tax, through the introduction of various solutions to the legal construction of the tax that take into account the family and personal situation of the taxpayer. It was not until 1970 that the taxation of individual income was unified, integrating the legal solutions into a general personal income tax (Wołowiec, 2008).

CONCLUSIONS

In the Kosice Privilege, in return for recognizing Jadwiga's right to the Polish throne, King Louis of Hungary reduced the *poradlne* from 12 to 2 groszy from a peasant's field; he also exempted bridges, roads and embankments from the state, and promised not to impose new taxes. In 1447, the *cerkwicki privilege* was signed, in which Kazimierz Jagiellończyk pledged not to impose taxes. In 1454, once again the king pledged not to impose taxes through the establishment of the *Nieszawa Privilege*. Beginning in the 16th century, head tax, or tax per person, was paid in Poland. It was paid by the Jewish population in exchange for the king's protection; between 1500 and 1520 it was paid as an extraordinary tax by the nobility and clergy, due to the Tartar and Teutonic threat. In the 17th century, the poll tax was paid voluntarily, and from 1717 it was a permanent tax for the upkeep of the army. The years from 1505 to 1613 were known as the golden age for Polish treasury – during this period, in addition to the court and *poradlne*, such taxes were in effect as:

- *czopowe* (spunt) – the equivalent of today's excise tax. It was levied on the manufacture, import and sale (on-site sale) of alcoholic beverages; beer, wine, booze, and honey. The amount of the suppository was $\frac{1}{8}$ of the brewed wort – for breweries and $\frac{1}{18}$ of the profits – for innkeepers. Wort, is an intermediate product used to make beer, for example, made from barley malt, hops and other additives;
- *podymne* – a tax paid on each house. The amount of *podymne* depended on the size of the house and the town. After 1775 *podymne* was also paid on each chimney; *quarta* – a tax of $\frac{1}{4}$ (and since 1567 – $\frac{1}{5}$) of the royal estates paid for the maintenance of the army's enlisted, quartered troops; this tax was paid by the king;
- *łan tax* – paid by peasants, homesteaders, minor nobles, burghers-farmers, (the so-called town *łan tax*) on a field, *włóka* (scrape, trace); this tax was also paid by bailiffs, millers, fishermen, tarsiers and small rural craftsmen;
- *szos* – a tax on the assessed value of real estate, the amount of which was set for a longer period of time for each city; this tax was paid by owners of houses in cities, as well as merchants, small industrialists and urban artisans;

- Jewish head tax – levied on the number of heads, and later in a lump sum, paid by the Jewish population;
- fourth customs penny – a tribute that was levied in conscription years (enacted by the Sejm), in the form of an addition to the royal duty of 3 pennies;
- water tax – paid by merchants floating grain and forest goods to Gdansk and Elblag. Nobles trading their own grain and timber were exempt from the water tax). The water tax was also called the Nogat tax because it was collected at the Nogat River;
- hiberna – a tax paid to support the army during the winter. Initially paid in kind; the lending of quarters, winter lounges, it was later paid as a supplement to soldiers' pay.

Changes in taxes largely followed the first partition of Poland. After 1775, the so-called *general duty* was introduced – a tax of 3.3% of the value of internationally traded goods. In 1788, the Four-Year Sejm passed the so-called *voluntary sacrifice for the pressing needs of the homeland*, i.e. for the army. Stamp duties were also imposed on vested offices, on the clergy. A year later, the so-called *perpetual offering* – otherwise known as the offering of the tenth penny – was enacted as a tax on the nobility and clergy, which could not be passed on to subjects. The perpetual offering was intended to augment the national forces and amounted to 10% of the land revenue – from the nobility, 20% of the revenue – from the clergy.

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