

# THE TAX SYSTEM OF REAL PROPERTY IN POLAND AND IN LATVIA

Maria Heldak<sup>1</sup>, Vivita Baumane<sup>2</sup>

<sup>1</sup>Wroclaw University of Environmental and Life Sciences, <sup>2</sup>Latvia University of Agriculture

## Abstract

The article deals with the subject of the real property taxation system currently in force in Poland and in Latvia. The current basic real property taxation rate in Poland applies per 1m<sup>2</sup> of the estate's total area and additionally depends on the manner in which the property is used. Real property tax income becomes part of the budget of the commune in which the property is located. The forest tax and the agricultural tax are established separately. For many years there have been plans for changing the tax system used in Poland to the cadastral tax, which uses the cadastral value, resembling the market value of the real property, as the basis for real property taxation. Cadastral assessment in Latvia is mainly used for calculating the real property tax. To calculate the cadastral value of a particular object, five assessment models have been developed. They are: assessment model for building land, assessment model for rural land, assessment model for buildings, assessment model for apartments and assessment model for engineering technical objects. Real property tax and the amount of objects are determined by the law in Latvia.

Key words: tax system, cadastral tax, cadastral assessment, real property

## Introduction

The governmental changes in Poland which began in the late 1980s stimulated a huge economic transformation for the entire country. One of the most important changes involved switching from a centrally planned economy to a free market economy. This had its consequences in many areas and fostered e.g. the development and growth of the real property market. This was related to a simultaneous process of changes initiated with regard to the existing regulations and their adaptation to the new situation.

This was followed by a thorough state governance reform which aimed at the decentralisation of power with the concurrent creation of self-government communities (commune, poviats and voivodeship self-governments). Market regulations have been introduced into the domain of real property trade while real property ownership rights have been regulated and granted to legal persons. This was followed by the privatisation of companies and the implementation of ownership transformations in the domain of agricultural economy (Žróbek S., Žróbek R., Kuryj J., 2006).

Many new legal acts were established in the process of legal changes, including ones which normalised real estate taxation.

The real property tax in Latvia is a mandatory payment made by the owner to the local government in the territory of which the real property is located. The real property tax is paid by:

- physical and legal persons in whose property or the legal possession there is the real property (owner, legal possessor);
- for the real property, that on the joint ownership right is owned by several persons or it is in joint possession, pays each of the co-owners (joint possessor) on the basis of his deemed part of joint ownership (joint possession);
- the user pays for the state's or local government's property (land, buildings and engineering structures) but, in the absence thereof, the payer is the lessee.

The aim of the article is to assess common and different features of the real property tax in Poland and in Latvia. Therefore, in order to achieve the aim the following objectives were set: to explore the regulatory documents which govern the real property tax and to explore the process of determining it in Latvia and in Poland, as well as to provide research conclusions.

## Methodology of research and materials

The research was chosen to analyze the tax system of real property in Latvia and in Poland. For the analysis the normative acts of the land reform were selected. The above research conducted and the authors' opinions were taken into account.

Applying scientific research methods assessed tax system of real property common and different features. Monographic descriptive method, analysis and synthesis methods are used in the research of historical development, theory aspects and problem elements. Empirical research method is used to

develop general statements from separate facts or to determine regularities. Logical construction and interpretation method are used for developing conclusions.

## **Discussions and results**

### *The tax system in Poland*

In the early 1990s the government carried through an act regarding taxes and local fees, which normalised matters related to the real estate tax (Act from January 12, 1991 regarding taxes and local fees (i.e. 2010 Journal of Laws no. 95, item 613 as amended) (Act from January 12, 2010).

In accordance with article 2, section 1 of the Tax and Local Fees Act, real property taxation applies to real property or structures including:

- 1) land,
- 2) buildings or their parts,
- 3) structures or their parts related to business activity.

The act regulates the basis for real property taxation, i.e.:

- 1) area in the case of land;
- 2) floor space in the case of buildings or their parts;
- 3) in the case of structures or their parts related to business activity, subject to Act 4 - 6, the value defined in the regulations for income taxes, established for January 1<sup>st</sup> of the fiscal year, which serves as the basis for calculating the amortisation for the given year, not net of depreciation. In the case of fully depreciated structures, the value used comes from that established for January 1 of the year of the most recent amortisation write - off.

The current basic real property taxation rate in Poland applies per 1m<sup>2</sup> of the estate's total area and additionally depends on the manner in which the property is used. Real property tax income becomes part of the budget of the commune in which the property is located. The fee rate for the real property tax is determined by the town board through a resolution. The size of the fees cannot exceed legal fees (with regard to maximum fees) which are determined yearly by the minister of finances via a regulation 6. (Cymerman J., 2009). The real property is the area determines the size of the tax.

The tax authorities keep electronic real property tax journals for the purpose of measuring the tax assessment and in order to retrieve real property taxes as well as agricultural and forest taxes. These journals include data regarding the taxpayers and what is subject to taxation, especially the data provided by the taxpayers in the declarations they submit (Cymerman J. 2009).

Within the current system the owners of separate real property of identical area pay the same tax regardless of the location or the condition of these properties. Quite often real property owners do not possess the funds required to properly maintain their property. In some cases a person may live in a very large house or venue in an attractive location, but their income does not allow them to maintain their real property.

There are two separate taxes established for agricultural and forest land. These are governed using separate regulations. These taxes involve lands classified in the Land and Property Register as agricultural and forest lands with the exception of land occupied for the purpose of running a business activity other than agricultural or forest activities.

The following data serves as the basis for agricultural taxation:

- 1) in the case of agricultural farms: the number of conversion hectares established on the basis of the area, the types and classes of arable land figuring in the Land and Property Register, as well as depending on whether the commune is part of the taxing district,
- 2) for other types of land: the number of physical hectares figuring in the Land and Property Register.

An agricultural holding is defined as a area of land classified as arable land, wooded or shrubbed land located within arable land, with the exception of lands occupied for the purpose of pursuing a business activity with their total area exceeding 1 ha or 1 conversion ha.

The basis for forest tax taxation is the area of the forest expressed in hectares, figuring in the Land and Property Register.

Currently, the maximum tax rate for the property other than agricultural and forestry are expressed in zloty and converted to 1 m<sup>2</sup>.

In accordance with the proclamation by the Minister of Finances from August 7, 2013 regarding the upper fee limit for taxes and local fees in 2014 (Official Gazette of the Republic of Poland from September 9, 2013, item 724), published based on article 20, sec. 2 of the 12 January 1991 Act on

Taxes and Local Fees, town boards cannot establish tax and fee rates higher than the following maximum rates.

These equal:

1. Land fees:

- a) related to business activity, regardless of the manner of qualification in the Land and Property Register: 0.89 PLN per 1m<sup>2</sup> of area,
- b) below lakes, reserved for retention reservoirs or water plants: 4.56 PLN per 1 ha of area,
- c) other, including those reserved for paid public welfare statute activities by public welfare organisations: 0.46 PLN per 1m<sup>2</sup> of area;

2. Buildings or their parts:

- a) residential buildings: 0.74 PLN per 1m<sup>2</sup> of floor space,
- b) related to business activity or residential buildings or their parts reserved for business activity: 23.03 PLN per 1m<sup>2</sup> of floor space,
- c) reserved for business activity in the domain of qualified seed grain trade: 10.75 PLN per 1m<sup>2</sup> of floor area,
- d) reserved for business activity in the domain of providing health services: 4.68 PLN per 1m<sup>2</sup> of floor space,
- e) other, including those reserved for paid public welfare statute activities by public welfare organisations: 7.73 PLN per 1m<sup>2</sup> of floor space;

It is common for town councils to locally establish fees that are slightly lower than those presented above.

#### *The planned taxation alterations in Poland*

Under the current circumstances the planned implementation of the cadastral tax seems a sensible and justified solution, as the tax would enable the owners of real property to cover their maintenance costs. A set cadastral value resembling the market value would function as the basis for determining the cadastral tax. Unfortunately, this change will inevitably foster an increase in the financial encumbrance of real property owners, which is why its implementation remains debatable.

Universal real property taxation becomes part of the information system of a state. It ensures access to specific information regarding a given real property, i.e. its cadastral value. This information will be represented using taxation maps and taxation tables.

The experiences of many well-developed states indicate that this solution is efficient and justified. It serves as a sort of objection towards the inappropriate allocation of capital in space (Hozer J., Kokot S., 2005).

The cadastral tax will be dependent on the data figuring in the real property cadastre, and established with regard to the percentage rate and the subject and object of taxation. The aim of the cadastral tax is thus to strive towards a situation in which it will serve as one of the main sources of profit for local governments.

Universal real property taxation is related to the valuation of many real properties. This can be performed at a mass scale or individually, yet the latter method requires a huge amount of funds, is time-consuming and hard to execute and revalue at a later time. It is thus sensible to utilise the other method, which makes it possible to estimate a large number of real estate in a short period of time and using a unified approach using the proper algorithm. This specific manner of valuation requires table and map databases as well as the tools to combine these two types of data.

Due to the planned changes in the taxation system in Poland there are efforts towards a more effective and rational real property taxation system which will depend on the cadastral value of real property. These efforts will constitute an element of universal real property taxation, while matters related to this type of taxation will be regulated through the following introduced legal acts:

- 1) act from August 21, 1997 regarding Real Property Economy (2010 Journal of Laws consolidated text, no. 102, item 651 as amended).
- 2) regulation by the Council of Ministers from June 29, 2005 regarding Universal Real Property Taxation (Journal of Laws no. 131, item 1092).

In accordance with the act on local government unit income, the income of a commune includes e.g. inflow from the real property tax and from forest and agricultural taxes. It will thus be in the best interest of the commune to introduce a more efficient real property taxation system. The current contribution from the real property tax constitutes ca. one third of the income of a commune. It is far larger in countries which have implemented the cadastral tax, with as much as 70% in the Netherlands (Krawczyk M., 2009).

Determining representative real property is the basis of establishing the cadastral value. Representative real property is determined for each type of real property existing in a given taxation zone. A taxation zone is a contiguous area of land which plays a crucial role in the local spatial development plan and which possesses similar features contributing to the value of the land (Regulation by the Council of Ministers from June 29, 2005 regarding universal real property taxation; 131 Journal Of Laws, item 1092).

Two types of land are distinguished for taxation purposes. The first type is developed land and land reserved for development, as well as lands reserved for non-agricultural and non-forest purposes; agricultural land and forest land constitute the second type.

The tasks related to the implementation of universal real property taxation belong to the staroste. In order to achieve this, the staroste commission's real property valuers to evaluate the cadastral value of representative real property along with their component parts, which will serve as the basis for establishing taxation maps and tables.

Wolanin M. (Wolanin M., 2005) claims that the procedure of real property universal taxation is comprised of a number of activities including:

- determining the value of representative real property;
- establishing taxation maps and tables and making them accessible to the public;
- approving taxation maps and tables by the town board by means of a resolution and deciding upon the comments and objections raised regarding the presented taxation maps and tables;
- rendering a decision by the staroste and announcing it in the official gazette of the voivodeship.

#### *The tax system in Latvia*

Cadastral data of Cadastre information system are used for this purpose. Latvian (or foreign) physical and legal persons (or groups of such persons) are payers of the tax. Contract or other agreement, which have ownership or legal possession of real property are the basis of tax impose. Only people whose ownership rights have been confirmed in the Land Book are considered as the owner of real property (Parsova V., Gurskiene V., Kaing M., 2012).

For the purposes of cadastral valuation:

- land is divided in accordance with the purpose of use specified for the real property :

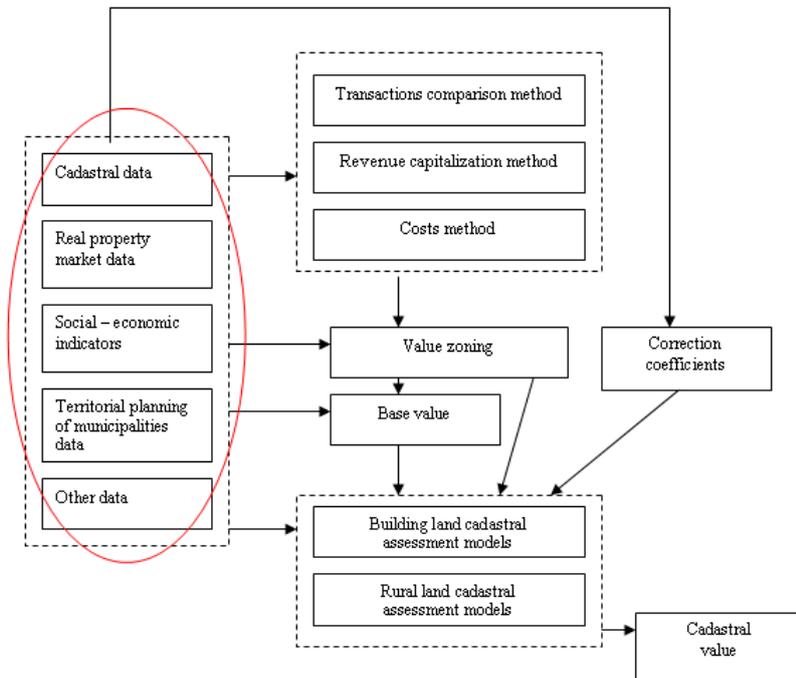
- rural land;
- building land.

- buildings are divided into building types and the building types with similar criteria, which form the value, shall be joined in groups of building types;

- engineering structures are divided into types of engineering structures and the types of engineering structures with similar criteria, which form the value, shall be joined in groups of engineering structure types.

Cadastral assessment in Latvia is mainly used for calculating the real property tax. In Europe and in other market economy countries large-scale or cadastral assessment is based on the information of real property market. The process and methods of determining cadastral values are similar to individual assessment, but it has to be taken into consideration that during cadastral assessment a big number of objects has to be assessed at the same time and assessment costs should be low (Baumane V., 2010).

And thus, to determine the cadastral value of land applying the cadastral assessment models of building land and rural land, the data of the real property market, the data of the Cadastre, socio-economic indicators, data of the territory planning of the local municipality and other information about the qualitative situation of the soils, pollution and the geological investigation of the land, existing communications in the assessed territory etc. are necessary (Baumane V., Paršova V., 2010).



**Fig.1.** Use of data in the cadastral assessment process in Latvia.

The compulsory tax rates are given below (On Immovable Property Tax, 1997):

1. Tax rate on the land, buildings or parts thereof and engineering constructions is 1.5 percent of the cadastral value of the real property.
2. Tax rate on residential buildings, regardless of whether or not they are divided into residential properties, residential parts of the set of premises in non-residential buildings, the functional use of the accommodation, as well as set of premises, the functional use is associated with living (garages, car parks, basements, storage and utility rooms), if they are not used for economic activities is:
  - 0.2 per cent of those which cadastral value do not exceed EUR 56,915;
  - 0.4 per cent of those which cadastral value is from EUR 56,915 to EUR 106,715;
  - 0.6 per cent of those which cadastral value exceeds EUR 106,715.
3. 1.5 per cent additional tax rate is imposed on unused agriculture land.

The taxation period is the calendar year. Cadastral valuation is a set of operations in order to specify the value of a cadastre object. It is also a systematic valuation of property groups on a particular date, performing the valuation according to a standardized procedure. Mainly is used for calculating the *real property tax*. Cadastral value shall be calculated for all cadastre objects and real property registered in the Cadastre information system.

The State Land Service (SLS) as a governmental institution of the Republic of Latvia is in charge of real property object data accumulation and dissemination to institutions responsible for land management and supervision. The SLS is supervised by Minister of Justice.

The SLS is also responsible for cadastral valuation according to procedures determined by The Cabinet. It is important that information regarding real property transactions is used at least for last two years. The SLS registers and analyses the prices of the real property market. It also lease payments and determines the price level. In order to accumulate and process information regarding real property transactions, the Cadastre information system maintains the database of the real property market.

Lots of data registered in the Cadastre information system are taking into account during the process of cadastral value calculating (Parsova V., Gurskiene V., Kaing M., 2012):

- the base of cadastral value,
- data characterising the cadastre object,
- purposes of use of the real property,
- encumbrances of the real property object.

The SLS is performing operations in Cadastre information system which are mentioned below (The local government has to administer the tax):

- maintenance of data regarding the object of real property,
- entering the information regarding the payer of the tax.

It is worth to note the fact that cadastral value excludes the value of forestry plantations. The cadastral value does not include the value of forest stands, but the value of forest stands is taken into account for taxation purposes, too. The State Forest Service is the right institution for calculation of forest value.

The local government prepares a payment notice (administrative act) with a cadastral tax. Every taxpayer is obliged to pay the tax on the basis of this payment notice. If a payer of real property tax has not received a payment notice by 15 February of the current assessment year, he/she has an obligation to inform the local government within one month. The tax shall be paid once in each quarter – not later than 31 March, 15 May, 15 August and 15 November – in the amount of one quarter of the yearly tax sum. There is also one more opportunity: the tax may also be paid once a year by advance payment.

There are also some opportunities to receive abatements: for real property tax the amount of tax may be reduced for politically repressed persons - by 50%, but only in case if the immovable property is not used for economic activity, the local governments may accept regulations, which provide abatements for separate categories of taxpayers in the amount of 90%, 70%, 50% or 25% of the tax amount. Such amount of abatement (90%) may be granted to persons, having status of low income persons or families.

The SLS maintains information systems, which provide data for administration of real property tax:

- calculation of the cadastral value for real property taxation,
- gathering information on taxpayers,
- preparing lists of objects imposed on real property tax and taxpayers,
- calculation of the total amount of foreseen values of real property objects.

The SLS is responsible only for calculation of the cadastral value since 2010. Except of this it still regularly transfers to municipalities about 80 percents of data, stored in the Cadastre information system.

The local governments by issuing the binding regulations have the right in 2012 to restrict the growth of the tax volume on land or maintain the size of the land to maintain it at the level at that of 2011, as well as to determine the extent of the growth restriction and the terms for implementing the regulations (What is Immovable Property..., 2014).

In 2008, 2009 and 2010 and 2011, after updating of the cadastral value of the real property, the amount of real property tax, if the purpose for use of the real property does not change, shall not exceed the amount of tax calculated for the previous taxation year (not taking into account the abatements) by more than 25% for each unit of land and each building separately. The limitation for growth of the amount of real property tax shall also be applied to such objects of the real property tax in a multi-unit residential house that consist of one group of premises and undivided parts of land. If the area of the object of real property tax has been changed in 2008, 2009, 2010 and 2011 in comparison with the area for which real property tax was calculated in the previous taxation year, the real property tax shall be calculated following the amount of real property tax for one square metre calculated in the previous taxation year.

Real property tax on land in protected natural areas, except in the neutral zones and natural sites in 2010, does not exceed the tax amount of 2009.

## Conclusions

1. The first part shows problems, process and proposition related to general valuation of Real Property in Poland (Universal real property taxation).
2. Within the current system in Poland the owners of separate real property of identical area pay the same tax regardless of the location or the condition of these estates. Quite often real estate owners do not possess the funds required to properly maintain their property.
3. Universal real property taxation is related to the valuation of many real property. This can be performed at a mass scale or individually, yet the latter method requires a huge amount of funds, is time-consuming and hard to execute and reevaluate at a later time.
4. To ensure determining the cadastral value of real property for the needs of the country, municipalities and society, the operation of the cadastral assessment system in Latvia is organised in three stages – data collection, data analysis, calculation of cadastral values.

5. Until December 31, 2005 cadastral assessment of real property was regulated by the law “On Real Property Tax”, but from January 1, 2006 it is also the Immovable Property State Cadastre Law and the Regulations No.305 of the CM - Regulations on cadastral assessment that provide the cadastral assessment models of building and rural land and characterise in detail the model indicators.
6. To determine the cadastral value of land applying the cadastral assessment models of building land and rural land, real property market data, the Cadastre data, socio-economic indicators, data of the territorial planning of local municipalities and other information about the qualitative condition of soils, pollution, geological research of land, existing engineering communications in the territory to be assessed etc. are necessary.

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#### Information about authors

**Maria Heldak**, dr hab. inż., Head of Department of Surveying Equipment, Agricultural and Economy Real Estate; Wrocław University of Environmental and Life Sciences, Department of Spatial Management, Poland; Address: ul. Grunwaldzka 53, 50-357 Wrocław, e-mail: [maria.heldak@up.wroc.pl](mailto:maria.heldak@up.wroc.pl), Fields of interest: real estate management, real estate valuation, spatial.

**Vivita Baumanė**, Dr.oec., Associate professor, Latvia University of Agriculture, Faculty of Rural Engineering, Department of Land Management and Geodesy. Address: Akademijas 19, Jelgava, Latvia, LV-3001, +37163026152, [vivita.baumane@llu.lv](mailto:vivita.baumane@llu.lv), Fields of interest: agrarian economics, land use, land degradation, assessment of real property, market of real property