

REAL ESTATE TAXATION IN POLAND

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TAXES AND CHARGES WHICH CONSTITUTE *GMINAS'* INCOME

- REAL ESTATE TAX
 - AGRICULTURAL TAX
 - FOREST TAX
 - MOTOR VEHICLES TAX
 - DONATION AND INHERITANCE TAX
 - TAX ON CIVIL LAW TRANSACTIONS
 - LUMP-SUM NATURAL PERSONS' INCOME TAX PAID IN A FORM OF A FIXED AMOUNT TAX
 - MARKET PLACE FEE
 - LOCAL FEE
 - RESORT FEE
 - DOG OWNERS' FEE
-

TAXES CHARGED FOR REAL ESTATE OWNERSHIP

- REAL ESTATE TAX (LANDS, BUILDINGS, STRUCTURES)
- AGRICULTURAL TAX (LANDS)
- FOREST TAX (LANDS)

LEGAL BASES

➤ **REAL ESTATE TAX**

Act of 12.01.1991 on Local Taxes and Charges (i.e. Dz.U. of 2006 No. 121, item 844 as amended)

➤ **AGRICULTURAL TAX**

Act of 15.11.1984 on Agricultural Tax (i.e. Dz.U. of 2006 No. 136, item 969 as amended)

➤ **FOREST TAX**

Act of 30.10.2002 on Forest Tax (Dz.U. No. 200, item 1682 as amended)

WHICH LAND TAX?

DEPENDING ON THE TYPE OF LAND, ONLY ONE LAND TAX IS PAID OUT OF THOSE INDICATED.

TAXATION FORM DEPENDS ON:

- THE TYPE OF LAND DETERMINED ON THE BASIS OF THE LANDS AND BUILDINGS REGISTER
- THE LAND'S USE

FUNDAMENTAL PRINCIPLE OF TAXATION:

- CULTIVATED LANDS – AGRICULTURAL TAX
- FORESTS – FOREST TAX
- OTHER LANDS – REAL ESTATE TAX

FORESTS AND CULTIVATED LANDS OCCUPIED FOR CONDUCTING BUSINESS ACTIVITY ARE SUBJECT TO REAL ESTATE TAX

IS IT A FOREST?



IS IT A CULTIVATED LAND?



LANDS' TAXATION BASIS

- **in real estate tax – the land's area as specified in the lands and buildings register measured in m²**
- **in agricultural tax – the land's area as specified in the lands and buildings register measured in physical ha Or equivalent fiscal ha, equivalent fiscal ha = physical ha x legislative conversion rate (depending on the type of land, taxation district and the cultivated land's class)**

Example:

2 ha meadow in the I taxation district, I class (conversion rate 1,75) = 3,5 of equivalent fiscal ha

2 ha meadow in the IV taxation district, VI class (conversion rate 0,05) = 0,1 of equivalent fiscal ha

- **in forest tax - the land's area as specified in the lands and buildings register measured in physical ha**
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DIFFERENCES IN LANDS' TAXATION

RATES FOR A GIVEN FISCAL YEAR RESULT FROM THE RESOLUTION OF A *GMINA* COUNCIL ADOPTED ON THE BASIS OF THE ACT. THE RATE FROM THE RESOLUTION CANNOT EXCEED A MAXIMUM RATE SPECIFIED IN THE ACT. THERE ARE NO MINIMUM RATES.

MAXIMUM ANNUAL RATES ON 1 HA (10000 M²):

- REAL ESTATE TAX – FOR LANDS CONNECTED WITH BUSINESS ACTIVITY: **PLN 7.100**, FOR OTHER LANDS: **PLN 3.500**
- AGRICULTURAL TAX – FOR AGRICULTURAL FARMS' LANDS: **PLN 145**, FOR LANDS THAT ARE NOT AGRICULTURAL FARMS: **PLN 291**
- FOREST TAX – **PLN 32**

BUILDINGS

STATUTORY DEFINITION:

- A BUILDING STRUCTURE WITHIN THE MEANING OF BUILDING LAW
- PERMANENTLY ATTACHED TO THE LAND
- SEPARATED FROM THE AREA BY DIVIDING STRUCTURES
- WITH FOUNDATIONS
- WITH A ROOF

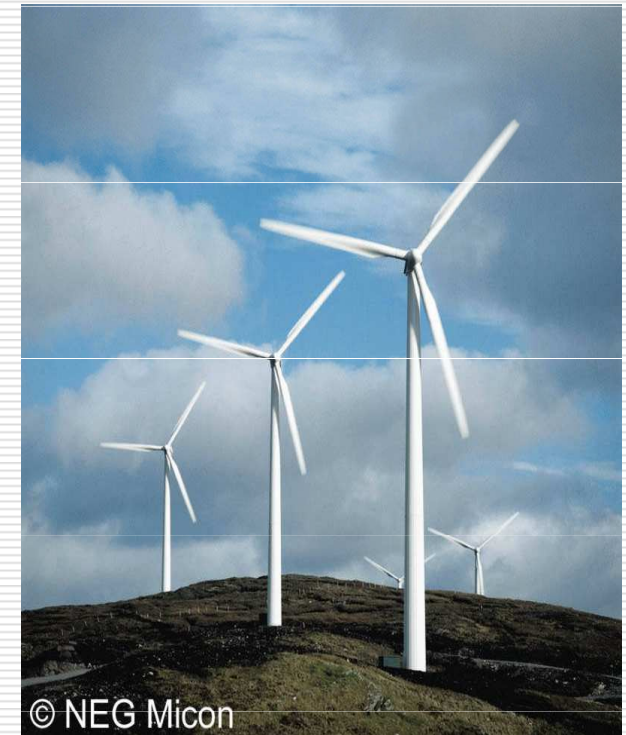
BUILDING STRUCTURE

STATUTORY DEFINITION:

- A CIVIL STRUCTURE WITHIN THE MEANING OF BUILDING LAW
- THAT IS NOT A BUILDING
- THAT IS NOT A LANDSCAPE ARCHITECTURE STRUCTURE (E.G. STATUTES, SANDPITS)

A BUILDING STRUCTURE IS ALSO A BUILDING CONSTRUCTION CONNECTED WITH A BUILDING STRUCTURE (E.G. PARKING SITES, REFUSE DUMPS SITES).

EXAMPLES OF BUILDING STRUCTURES



TAX AUTHORITIES

A COMPETENT TAX AUTHORITY FOR REAL ESTATE, AGRICULTURAL AND FOREST TAX IS:

- VILLAGE MAYOR
- MAYOR
- CITY MAYOR/PRESIDENT

COMPETENT FOR A LOCALIZATION OF A GIVEN LAND, BUILDING OR STRUCTURE

REAL ESTATE AND FOREST TAX PAYER OR AGRICULTURAL TAX PAYER

A NATURAL PERSON (E.G. JAN KOWALSKI), **A LEGAL PERSON/CORPORATION** (E.G. A JOINT-STOCK COMPANY) OR **AN ORGANIZATIONAL ENTITY, INCLUDING A COMPANY THAT LACKS LEGAL STATUS** (E.G. GENERAL PARTNERSHIP, ASSOCIATION), WHICH IS:

- AN OWNER
- A PERPETUAL LESSEE
- AN AUTONOMOUS POSSESSOR (OWNS AS AN OWNER BUT WITHOUT A LEGAL TITLE)
- A DEPENDENT POSSESSOR (E.G. A LESSEE, TENANT) OF THE REAL ESTATE THAT BELONGS TO THE STATE TREASURY OR THE UNIT OF LOCAL SELF-GOVERNMENT
- A POSSESSOR WITHOUT A LEGAL TITLE TO THE REAL ESTATE THAT BELONGS TO THE STATE TREASURY OR THE UNIT OF LOCAL SELF-GOVERNMENT (E.G. FACTUAL USER)

TAX PAYERS DISCLOSURE REQUIREMENTS

- NATURAL PERSONS SUBMIT INFORMATION ABOUT LANDS, BUILDINGS AND STRUCTURES IN THEIR POSSESSION ON MODEL FORMS SPECIFIED BY A *GMINA* COUNCIL WITHIN 14 DAYS FROM THE DAY TAX OBLIGATIONS HAVE ARISEN OR EXPIRED
- LEGAL PERSONS/CORPORATIONS AND ORGANIZATIONAL ENTITIES LACKING LEGAL STATUS SUBMIT ANNUAL TAX RETURNS UNTIL 15 JANUARY OF A FISCAL YEAR.
- TAX RETURNS AND INFORMATION SHOULD BE CORRECTED IF DURING A YEAR THERE ARISE CIRCUMSTANCES DECIDING ABOUT A CHANGE IN THE TAXATION RULES

TAXATION BASE IN REAL ESTATE TAX (WHAT IS SUBJECT TO TAX CALCULATION?)

- **LANDS** – ON PRINCIPLE, THE AREA IN M² IS ESTABLISHED ON THE BASIS OF THE LANDS AND BUILDINGS REGISTER, EXCEPTIONAL AREA IN HA

 - **BUILDINGS** – A USABLE AREA IN M² MEASURED ALONG THE INNER LENGTH ALL STORIES WALLS EXCEPT THE AREA OF STAIRCASES AND LIFTS SHAFTS; A STOREY ALSO INCLUDES UNDERGROUND GARAGES, BASEMENTS AND USABLE LOFTS

 - **STRUCTURES** – A DEPRECIATION VALUE IS ADOPTED FOR INCOME TAX PURPOSES, AND IF A STRUCTURE IS NOT DEPRECIATED – A MARKET VALUE
-

TAXATION BASE IN AGRICULTURAL TAX (WHAT IS SUBJECT TO TAX CALCULATION?)

- LAND'S AREA IN PHYSICAL HA IF THE LANDS ARE NOT AN AGRICULTURAL FARM
- LAND'S AREA IN EQUIVALENT FISCAL HA IF THE LANDS ARE AN AGRICULTURAL FARM

AGRICULTURAL FARM – CULTIVATED LANDS OF A TOTAL AREA EXCEEDING 1 HA OR 1 EQUIVALENT FISCAL HA THAT ARE OWNED OR POSSESSED BY A NATURAL PERSON, LEGAL PERSON OR AN ORGANIZATIONAL ENTITY INCLUDING A COMPANY WITHOUT A LEGAL STATUS. CULTIVATED LANDS OCCUPIED FOR CONDUCTING BUSINESS ACTIVITY ARE NOT INCLUDED.

TAXATION BASE IN FOREST TAX (WHAT IS SUBJECT TO TAX CALCULATION?)

A FOREST'S AREA EXPRESSED IN HECTARES
RESULTING FROM THE LANDS AND BUILDINGS
REGISTER

REAL ESTATE TAX RATES

➤ **RESULT FROM RESOLUTIONS ADOPTED BY A *GMINA* COUNCIL**

➤ **DETERMINED FOR A GIVEN YEAR**

➤ **CANNOT EXCEED STATUTORY MAXIMUM RATES:**

1) for lands:

a) connected with conducting business activity – PLN 0,71 for 1 m² area,

b) under lakes seized for water reservoirs or water power stations – PLN 3,74 for 1 ha area,

c) other – PLN 0,35 for 1 m² area;

2) for buildings or their parts:

a) for housing premises – PLN 0,59 for 1 m² usable area,

b) connected with conducting business activity and for housing buildings or their parts occupied for conducting business activity – PLN 19,01 for 1 m² usable area,

c) occupied for conducting business activity in the scope of trade in qualified seed grain – PLN 8,86 for 1 m² usable area,

d) occupied for conducting business activity in the scope of health services provisions – PLN 3,84 for 1 m² usable area,

e) other – PLN 6,73 for 1 m² usable area,

3) for structures – 2% of their value.

➤ **MAXIMUM RATES ARE VALORIZED ANNUALLY BY INFLATION RATE**

➤ **A *GMINA* COUNCIL MAY DIFFERENTIATE THEIR LEVEL, E.G. ON THE BASIS OF LOCALIZATION, TYPE OF DEVELOPMENT, TECHNICAL CONDITIONS, BUILDING'S AGE**

AGRICULTURAL TAX RATES

AGRICULTURAL TAX FOR A FISCAL YEAR AMOUNTS TO:

- FOR 1 EQUIVALENT FISCAL HA OF LANDS – A PECUNIARY EQUIVALENT OF 2,5Q (QUINTAL) OF RYE
- FOR 1 HA OF LANDS – A PECUNIARY EQUIVALENT OF 5Q OF RYE

THE AVERAGE PRICE OF RYE BUYING IS ANNOUNCED BY PRESIDENT OF THE POLISH CENTRAL STATISTICAL OFFICE WITHIN 20 DAYS AFTER THE LAPSE OF THE THIRD QUARTER. FOR 2008 THE PRICE OF RYE BUYING AMOUNTS TO PLN 58,28 FOR 1Q.

BY VIRTUE OF A RESOLUTION A GMINA COUNCIL MAY REDUCE THE PRICE OF RYE BUYING ADOPTED WITHIN THE TERRITORY OF ITS ACTIVITY FOR CALCULATING AGRICULTURAL TAX.

FOREST TAX RATE

- **FOREST TAX FOR 1 HA FOR A FISCAL YEAR AMOUNTS TO A PECUNIARY EQUIVALENT OF 0,220 M³ OF WOOD CALCULATED ACCORDING TO THE AVERAGE PRICE OF WOOD SALE OBTAINED BY FOREST INSPECTORATES FOR THE FIRST THREE QUARTERS OF A YEAR PRECEDING A FISCAL YEAR. THE PRICE IS ANNOUNCED BY PRESIDENT OF THE POLISH CENTRAL STATISTICAL OFFICE WITHIN 20 DAYS AFTER THE LAPSE OF THE THIRD QUARTER. FOR 2008 IT AMOUNTS TO PLN 147,28 FOR 1 M³.**
- **FOR PROTECTIVE FORESTS AND FORESTS THAT ARE PARTS OF NATURE RESERVES AND NATIONAL PARKS THE RATE IS LOWERED BY 50%**
- **A GMINA COUNCIL MAY REDUCE THE AMOUNT THAT CONSTITUTES THE AVERAGE PRICE OF WOOD SALE ADOPTED AS A BASIS FOR CALCULATING FOREST TAX WITHIN THE *GMINA'S* TERRITORY**

ARISING AND EXPIRY OF TAX OBLIGATIONS

- **AS A RULE, REAL ESTATE, AGRICULTURAL AND FOREST TAX OBLIGATIONS ARISE FROM THE FIRST DAY OF A MONTH FOLLOWING A MONTH DURING WHICH THERE HAVE OCCURRED CIRCUMSTANCES JUSTIFYING ARISING OF SUCH OBLIGATION (E.G. PURCHASED LAND)**
- **EXCEPTIONALLY, IN THE CASE OF A REAL ESTATE TAX FOR NEWLY CONSTRUCTED BUILDINGS AND STRUCTURES, A TAX OBLIGATION ARISES FROM 1 JANUARY OF A YEAR FOLLOWING THE YEAR WHEN THE CONSTRUCTION HAS BEEN FINISHED OR THE BUILDING OR STRUCTURES HAVE BEEN USED BEFORE THEIR FINAL COMPLETION**
- **ALL TAX OBLIGATIONS EXPIRE AT THE END OF A MONTH IN WHICH THE CIRCUMSTANCES JUSTIFYING ARISING OF SUCH OBLIGATION (E.G. THE LAND, BUILDING OR STRUCTURE HAVE BEEN SOLD) TERMINATED**

TERMS AND PAYMENTS

REAL ESTATE AND FOREST TAX:

- NATURAL PERSONS PAY A TAX CALCULATED IN A TAX DECISION ISSUED BY A TAX AUTHORITY IN 4 INSTALLMENTS BY: 15 MARCH, 15 MAY, 15 SEPTEMBER AND 15 NOVEMBER OF A FISCAL YEAR,
- LEGAL PERSONS AND ORGANIZATIONAL ENTITIES WITHOUT A LEGAL STATUS CALCULATE TAX THEMSELVES AND REVEAL IT IN TAX RETURNS SUBMITTED EACH YEAR BY 15 JANUARY. THE TAX REVEALED IN THE TAX RETURN IS PAID IN 12 INSTALLMENTS BY A 15TH DAY OF EACH MONTH.

AGRICULTURAL TAX:

- NATURAL PERSONS PAY A TAX CALCULATED IN A TAX DECISION ISSUED BY A TAX AUTHORITY IN 4 INSTALLMENTS BY: 15 MARCH, 15 MAY, 15 SEPTEMBER AND 15 NOVEMBER OF A FISCAL YEAR
- LEGAL PERSONS AND ORGANIZATIONAL ENTITIES WITHOUT A LEGAL STATUS CALCULATE TAX THEMSELVES AND REVEAL IT IN TAX RETURNS SUBMITTED EACH YEAR BY 15 JANUARY. THE TAX REVEALED IN THE TAX RETURN IS PAID IN 4 INSTALLMENTS BY: 15 MARCH, 15 MAY, 15 SEPTEMBER AND 15 NOVEMBER OF A FISCAL YEAR

TAXES MAY BE COLLECTED BY TAX COLLECTORS (PERSONS INDICATED IN THE RESOLUTION OF A *GMINA* COUNCIL WHO COLLECT THE TAX AND TRANSFER IT ON THE TAX AUTHORITY'S ACCOUNT).

RELIEFS AND EXEMPTIONS FROM REAL ESTATE, AGRICULTURAL AND FOREST TAX

- EACH ACT INCLUDES A CATALOGUE OF STATUTORY EXEMPTIONS, E.G. FOR SCHOOLS, PUBLIC AIRPORTS' REAL ESTATE, REAL ESTATE ENTERED IN THE MONUMENTS REGISTER
- BY VIRTUE OF A RESOLUTION *GMINA* COUNCILS MAY INTRODUCE OTHER EXEMPTIONS THAN STATUTORY ONES BUT THEY CANNOT BE OF A SUBJECTIVE NATURE (A THING NOT A PERSON MAY BE EXEMPTED)
- THE ACT PROVIDES FOR NUMEROUS TAX RELIEFS FOR AGRICULTURAL TAX, E.G. CONNECTED WITH THE CONSTRUCTION OR MODERNIZATION OF LIVESTOCK FACILITIES. SUCH RELIEFS INVOLVE A DEDUCTION OF 25% EXPENSES INCURRED FOR THIS INVESTMENT FROM THE AGRICULTURAL TAX AMOUNT
- BY VIRTUE OF A RESOLUTION *GMINA* COUNCILS MAY INTRODUCE OTHER TAX RELIEFS FOR AGRICULTURAL TAX

AS A RULE EXEMPTIONS AND RELIEFS ARE GRANTED BY FORCE OF LAW AND IT IS NOT NECESSARY FOR A TAX AUTHORITY TO ISSUE A DECISION IN THIS RESPECT WITH THE EXCEPTION OF PREFERENCES IN AGRICULTURAL TAX WHERE IN SOME CASES A TAX PAYER MUST SUBMIT AN APPLICATION FOR A RELIEF OR EXEMPTION AND RECEIVE A DECISION OF A TAX AUTHORITY.

THANK YOU

