

PROPERTY TAXES

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The tax system in the Slovak Republic is currently affected by two factors in particular – harmonisation of tax legislation in the EU and coordination of tax policy in the Organisation for Economic Cooperation and Development (OECD). In the field of property taxes, which are direct taxes, member states of the EU retain significant independence. They are responsible for their own national enactment. The reason for the difference in the enactment of property taxes as opposed to other taxes is that as a rule they do not bring about any significant deformation to the functioning of the single internal market within the EU. In many cases individual member states use in property tax deregulation of tax policy to the regional level. Harmonisation in the field of direct – property taxes would be necessary only in the case of their negative impact on the functioning of the EU single internal market.

Property taxes in the Slovak tax system are as follows: real estate tax, real-estate conveyance and transfer tax and road tax. A property tax must have certain features. Such particulars represent a set of financial-administrative measures that must be contained in each property tax and a fee so that all taxation targets may be ensured.

Tax is an obligatory non-returnable payment to public budgets that is imposed as an obligation upon tax entities on the basis of generally binding legal regulations without a direct specific service in return. A taxpayer is a person whose incomes, property or activity are directly subject to tax. The definition of a taxpayer in the case of property tax is direct, i.e. the unambiguous, comprehensible and address definition of the person obliged to pay the tax. The tax burden is thus borne by the taxpayer itself and cannot be transferred. This applies in the case where tax ensues to tax entities from law, i.e. where a legal impact applies – legal incidence.

A property taxpayer is a person who pays to the tax administrator a tax collected from the taxpayer or deducted in respect of the taxpayer and who bears responsibility through its property. A tax object is the subject of taxation, which may be an income, activity, thing or property. The tax base is a quantitative expression of the subject of tax. It represents the thing on the basis of

which the tax is levied. The method of calculating the tax base must be defined exhaustively by the Tax Act. Its calculation is based on a set document (e.g. expert's opinion on the value of the real estate).

Property taxes constitute about 30% of total state revenues, or local budgets. They are levied in particular on real estate – land and structures. It is a phenomenon affecting everyone owning a building plot, house, apartment, garage, garden, cottage, or arable land, or a part of a forest. It relates to everyone who is solving their housing through a purchase of a new apartment, its sale, exchange or letting. Tax issues from the aspect of a business entity are solved by the business's tax management.

The result of tax reform is a new tax system applicable from 1 January 2004. On this day inheritance tax and gift tax were repealed with definitive validity, which in the Slovak tax system had existed from 1993, together with the real-estate conveyance and transfer tax.

The reason here lies in the opinion that the collection of inheritance tax and gift tax was unjust. The theoretical definition of the term tax justice has been under debate by economists for several centuries, but in practice any definition is unreachable in an absolute form. Nevertheless, according to many tax experts tax justice is achieved when each taxpayer contributes to covering common expenditure in a form of taxes in an adequate, appropriate, correct share. Taxation principles may be assessed from the aspect of horizontal and vertical justice. From the aspect of the horizontal justice taxation principle, or from the aspect of the solvency taxation principle, justice is connected with the determination of the taxation basis which should with the most possible precision and complexity fit a person's wealth. Taxation bases are income and consumption. Certain types of income are defined only with great difficulty (e.g. incomes in kind, incomes acquired through inheritance or gifts). If we assess the taxation basis from the time aspect, then consumption as a taxation basis defers taxation into a later time period. An example is inheritance tax. What an individual does not consume throughout his/her life will be inherited by another individual and tax in consuming the inherited income shall be paid by the inheritor later on behalf of the originator's income. Assessment according to the vertical

¹ Lenártová, G.: Daňové systémy. Ekonóm, Bratislava 2004, p. 56.

² Act No 511/1992 Zb. on the administration of taxes and fees as later amended.

³ Act No 511/1992 Zb. on the administration of taxes and fees as later amended.

⁴ Lenártová, G.: Daňové systémy. Ekonóm, Bratislava 2004, p. 120.



justice of taxation is based on the specific income of an individual. An individual's wealth is however affected by the overall income of households, therefore in practice it is rare.

In the current taxation systems a combination of individual taxation basis prevail. Incomes, consumption, individual elements of wealth are taxed. Justice is connected with the redistribution function of taxes and is based on the benefit principle or on the solvency principle.

Real-estate conveyance and transfer tax

The amendment to Act No 318/1992 Zb. on real-estate conveyance and transfer tax has been in force since 1 January 2004. The object of the tax is the conveyance or transfer of the ownership of real estate in the territory of the SR against payment and deposits of real estate into the companies and cooperatives. The exchange of real estate is deemed one conveyance. The tax base is the agreed price for the real estate, at least however the general value of the real estate set according to a specific regulation. In exchanging real estate the tax base is always the higher of the general values of real estate properties.

Since 2004 the long-notified change in the setting of the general – official price of real estate has been in force. Edict No 465/1991 Zb. as later amended, used for more than ten years, has been replaced as of the start of this year by the Edict of the Ministry of Justice SR No 86/2002 Z. z. on setting the general value of property. The official price is thus becoming more objective and should reflect the real situation in the real estate market. The repealing of the real-estate conveyance and transfer tax had originally been considered, but with regard to the not inconsiderable revenue coming from this tax and also for the reason of maintaining subsidies (e.g. to town's public transport in regional towns) it was not cancelled. Currently it represents 3% of the tax base. From a certain aspect it constitutes a multiple taxation of real estate property acquired from taxed incomes in its conveyance or transfer to a different owner. From the aspect of the influence on the state budget, annual revenue may be expected from this tax amounting to approximately SKK 900 million. It is expected that the value of the real estate property acquired will increase in the coming years, which in the final consequence may positively affect also the development of revenues to the state budget.

Real estate tax

Currently real estate tax is governed by Act No 317/1992 Zb. as later amended, the last time amendments entering into force on 1 January 2004. Application of the Act on Real Estate Tax in practice has pointed out many shortcomings and muddles in its application. The

amendment to the act has partially removed these shortcomings. It clarifies and supplements those provisions that in the applying the act in practice were ambiguous and sometimes even admitted differing interpretations. The amendment to the act reacts to many problems connected with the application of new regulations, or to amendments to other regulations (such as the Building Act and Cadastre Act). It also reacts to the requirement for increasing the power of municipalities in applying the act and for rationalisation of tax collection.

The amendment to the act does not change the existing principles for taxing lands, structures and apartments. These should as of 1 January 2005 be taxed according to the value-based principle. The value of the real estate will be determined according to unified rules. The tax will be calculated as a percentage of this value. Implementation of this method of taxation is possible depending on the elaboration of the administratively integrated system for determining the market value of real estate. "Price maps" will be set. The rate of the tax will subsequently be set on a percentage basis of the value of the real estate, applying coefficients according to the location rate.

Real estate tax is thus a direct property tax, which with effect from 1 January 1993 replaced the agricultural tax on lands, house tax and localisation fee. It includes land tax, structure tax, apartment tax and tax on non-residential premises in an apartment house, on common parts of an apartment building and common facilities of an apartment house and their parts. The classification is based on the definition of real estate by the Civil Code and the Act on ownership of apartments and non-residential premises as amended by Act of the National Council SR No 151/1995 Z. z.

Land tax

A taxpayer is an owner of a land or administrator of a land in the ownership of the state or an administrator of a land in the ownership of a municipality, or an administrator of a land in the ownership of a higher territorial unit. If the land is in the ownership of several taxpayers, the taxpayer is each co-owner according to the amount of their co-ownership share. Where they agree, the taxpayer is one of them and the others guarantee the tax up to the amount of their co-ownership share. The object of land tax are lands in the territory of the SR in the classification of arable land, hop fields, vineyards, orchards, permanent green meadows, gardens, forest lands on which commercial forests grow, fish ponds for rearing fish, built-up areas and yards, building plots. The tax

⁵ Act No 476/2003 Z. z.



base on lands is the price of the soil without overgrowth, determined by multiplying the measure of the land in m² and the price for the soil ascertained per 1 m², derived from quality soil-ecological units according to the applicable price regulations. The annual rate of tax on lands for each begun m² ranges from SKK 0.10 to SKK 1. The tax administrator may, according to local conditions, increase these rates by 100%. In the case of lands the tax base is rounded down to the nearest hundred. The tax base is the soil price. The tax rate is multiplied by the coefficient with the precision of a hundredth without rounding and a tax with the possible increase is rounded up to the whole koruna.

Tax exemption observes in particular nationwide, economic and ecological interests, as well as compliance with international treaties and agreements. Tax relief relates in particular to land in the ownership of the state, land in the ownership of the capital of the SR, Bratislava, and the town of Košice, which have been entrusted into the administration of their urban districts. Tax exemption is mostly subject to the condition that the mentioned land will not be used for business, or any other gainful activities or rent. If the land or any of its parts is used for conducting business, even only for a part of the calendar year, the title to exemption lapses for the whole tax period. If reasons for tax exemption arise in the course of a calendar year, exemption is applicable only in the following taxation period.

Soil owners await land adjustments

Currently several projects for land adjustments are being compiled in Slovakia. The aim of land adjustments is the rational spatial arrangement of land ownership in accordance with the needs of the country's environment. The optimum arrangement of lands will enable the functional usage of agricultural land and the establishment of common facilities, e.g. field footpaths, dikes and avenues. The result should be the simplification of ownership and user relations. Slovakia has only a few lands having only one owner. The average measure of lands is approximately 4 000 m² and 10 – 15 owners fall within this plot. In practice it means that the measures of lands of an owner are added up and subsequently an integrated land issued to it in the appropriate measure and value. In odd cases the act allows a deviation disadvantaging at most 5% of the original value of the land. Lumping of lands and their issuing at a new place is carried out following the consent of land owners and their users. Land adjustments bring about also the option of settlement in money. Settlement in money is limited to the area of 400 m² of agricultural and 2 000 m² of forestry soil. The price for buying up agricultural and forestry soil is determined according to a price regulation. Adjustments should simplify the life of soil owners also from the aspect of the futu-

re commercial operations with soil. Owners will no longer need, when selling or letting the land, several deeds of title, but only one or two. From the aspect of levying real estate tax the fees will become more transparent and savings will be achieved also on administrative fees.

Building tax

The taxpayer is the owner of a structure, including the administrator of a structure in the ownership of the state and the administrator of a structure in the ownership of a municipality. In structures administered by the Slovak Land Fund, which are rented, the taxpayer is the lessee. In the case of a co-ownership of a structure by several parties, taxpayers are all co-owners according to the amount of their co-ownership share. With effect from 1 January 2004, where co-owners agree, the taxpayer may be one of them and the other co-owners guarantee the tax up to the amount of their co-ownership share. The object of the tax are structures having one or more above-ground floors or their parts connected to the ground by a fixed foundation and in respect of which a building-use decision has been issued, and where such a decision has not been issued, those structures or their parts that are actually used. The tax base is the whole measure of the built-up area in m², and this according to the state at 1 January of the taxation period. The basic rates of tax are increased in multi-floor structures by SKK 0.75 per each floor. Tax exemption on structures is based on the same criteria as in the case of tax exemption on land. With effect from 1 January 2004 tax exemption applies also to the newly-built houses for a period of 15 years from the year following the issuance of the building-use decision, extensions and superstructures of houses through which a separate apartment unit is acquired in the ownership of natural persons, if they serve exclusively for the permanent residence of the owner. Tax exemption applies exclusively to the first owner, or the building's acquirer.

In the case of co-ownership of a structure by several taxpayers it is necessary to determine each co-ownership share on the built-up area of the structure, since the tax base is expressed in m² of the built-up area.

Apartment tax

The taxpayer is the owner of an apartment, non-residential premises in an apartment building, including property administrations in the ownership of the state and the administrator of property in the ownership of a municipality, again with effect from 1 January 2004. If the common parts of an apartment building are in the co-ownership of several taxpayers, the apartment taxpayer is each

⁶ Act No 476/2003 Z. z., entered into force on 1 January 2004.



co-owner according to the amount of its ownership share. The tax is guaranteed, similarly as in the case of the preceding types of tax, by all taxpayers up to the amount of their co-ownership share. The subject of the tax and tax base are determined in a similar manner. The rate of apartment tax is SKK 1 per m² (including those begun), of the floor space of an apartment and non-apartment premises in an apartment building, the common parts of an apartment house or common facilities of an apartment building. After multiplying the tax rate by the coefficient, it is calculated with the precision of one hundredth without rounding, the tax with a possible increase is rounded up to the whole koruna. The amount of the tax rate, coefficient and tax increase for conducting business or renting will be determined by the municipality annually in the form of a generally binding regulation entering into force on 1 January of the respective taxation period.

Real estate tax is determined by tax administrator annually by 15 March of the current taxation period according to the state as at 1 January. Real estate tax may be paid in a lump sum or in the form of instalments.

Road tax

Road tax is one of the taxes forming the tax system of the SR, belonging among property taxes. Road tax for the respective tax period is paid in advance without imposition. The taxpayer is obliged to submit a tax return, calculate the tax and pay it. The road tax is governed by Act of the National Council of the SR No 87/1994 Z. z. Road tax in does not burden the taxpayer in full, since road tax paid by the taxpayer may be applied in the tax base from revenues as a tax expenditure (from 1 January 2004 in the new Act on Income Tax this is Article 19(3)(j)).

The main aim of introducing road tax is the taxation of the use of ground communications by motor vehicles and trailer vehicles. In determining the purpose in question the principle of transferring the coverage of costs for maintenance, repair and new construction of ground communication on to other users was taken as the basis. Road tax thus does not relate to the motor vehicles themselves, but rather to the use of ground communications by these vehicles. Subject to taxation are vehicles and trailer vehicles to which a registration number has been assigned and which at the same time is used for conducting business or in connection with it. The setting of the tax base is approached in different ways. In the case of light commercial vehicles (vans, etc.) and buses the tax base is determined according to their overall weight in tonnes and according to number of axles. As regards the taxation of passenger vehicles (cars, etc.), the tax base is set according to their engine capacity in m³. The Road Tax Act in its Article 4(1)

defines those vehicles exempted from road tax. Exemption applies to vehicles which are subject to tax, but with regard to society-wide and environmental interests are exempted from its fulfilment. In the case of vehicles used in combined transport (road, railway, in-land waterways, or sea transport), and under conditions set out by the act, the tax office will return the tax in the form of a percentage relief on the annual tax. A vehicle used in combined transport is not deemed a vehicle that delivers the goods on the road communications to a port, or railway station, where these goods are re-loaded (without the vehicle) on to a ship, or railway carriage.

In connection to the Slovak Republic's accession to the European Union branches of customs offices at the border crossings with the European Union countries will no longer have their original function, and thus also not fulfil tasks relating to the handling of road tax in the framework of international traffic. In connection to this change those provisions in the Road Tax Act are being repealed with effect from 1 May 2004 which resolves taxation of vehicles in the framework of international traffic and provisions concerning road tax administration, which had been performed by customs authorities (from 1 January 2004 an extensive amendment – Act No 609/2003 Z. z., from 15 April 2003 – amendment to Act No 191/2004 Z. z., in Article II).

Tax systems of selected countries in Western Europe

Tax laws form a field of the legal code that is particularly very sensitively, since such laws determine the manner of and share in which each entity contributes to the financing of the state's needs. The issue of determining and defining property taxes is from the aspect of the taxation of persons and business subjects very important. In individual EU states a different approach to direct taxes is applied.

Germany, together with Great Britain and France, is one of the "leaders" in the European Union having a significant influence on the development within the Community. Its tax system currently ranks among one of the most advanced and elaborated tax systems in the world. It contains a great number of taxes, duties, fees and other payments, which mutually supplement each other and are important for individual budgets. In ensuring their revenues, the triple tax competence, established by the constitution, is important, since taxes in Germany are administered at three levels: that of the Federation, lander and municipalities. Taxes may be classified according to the reallocation of tax revenue between the levels of the budget system and according to the object of tax. With regard to the latter, property tax is linked to revenues, incomes and property. It comprises inheritance and

⁷ Act No 476/2003 Z. z., entered into force on 1 January 2004.



gift tax, land tax and a share of trading and church tax. The German tax system comprises 38 types of taxes. Of the total revenues, about 55% comes from direct taxes and about 45% from excise duties. A special feature of German tax reform is the gradual reduction of taxes. On 1 January the starting tax rate will be reduced to 15% and the highest tax rate to 42%. In other EU countries, on the contrary, the tax relief has been compensated for on the one place by burdens in another field. Germany's tax system is typical in its enforcing to significant degree, besides horizontal tax obligations, also vertical tax obligations. In practice it is done so that the richer lander, such as Bayern or Nordrhein-Westfalen, pay higher taxes than poorer lander, thus creating resources also for less wealthy and less developed areas.

In Denmark the sum of revenues from taxes and fees forms approximately a half its GDP. The tax system is made up of a combination of direct and indirect taxation, a combination of taxation on incomes, property and consumption. Corporate income tax represents about 30% of taxable incomes. Property tax comprises real estate tax (tax on immovable assets and tax on soil), real-estate conveyance and transfer tax and inheritance and gift taxes. The tax on real estate and soil is imposed on their owners by district and municipal authorities. The basic rate annually depends on the location in which the real estate or land is located. On buildings used for conducting business and for administrative buildings additional taxes are collected. Told-Skat – the tax office is empowered to appreciate the property.

In Sweden taxes may be classified in several ways. One of them is the division into direct and indirect taxes. Real estate tax, wealth tax and inheritance and gift tax form direct taxes. The tax value of real estate is set at 75% of its market value, whereas real estate is appreciated every six years. Houses and weekend cottages are burdened by a 0.5% tax, company assets are taxed at a 1.0% rate. The wealth tax is imposed on the net wealth of a household at a rate of 1.5% of the tax base exceeding SEK 2 million for spouses and SEK 1.5 million for individuals. The tax base is 75% of the market value of the property. Inheritance and gift tax is aimed at the property inherited. An inheriting spouse has a deductible amount of SEK 280 000, children and grand-children SEK 70 000. The value taxed up to the amount of SEK 300 000 is taxed at a 10% rate, above SEK 600 000 it is 30%.

Finland is one of the countries characterised by relatively high tax burden. In Finland inheritance and gift tax is payable in the same manner. Recipients of gifts and legacies are divided into three groups. The first and second groups are spouses and siblings. The third group comprises the rest. The tax rate for the second group is double and for the third triple. It ranges from 10 to 16%, according to the tax base. Real estate tax is imposed on

all real estate located in Finland. It is collected by local authorities, depending on the location. The amount depends on the local authority and may be from 0.5 to 1%. In the case of real estate intended for housing the level of tax moves between 0.22 to 0.5%.

Tax systems in selected transitional economies

The basic features of tax systems of Central and Eastern European countries are: (a) a combination of income, property and consumption taxation, (b) a combination of direct and indirect taxation, (c) income taxation comprises income tax of natural persons and corporate income tax, (d) the delimitation of residents and non-residents is similar as in tax systems of advanced economies.

Tax systems in the selected transitional economies of Poland, Hungary and the Czech Republic may also be divided into direct and indirect taxes. Poland also applies inheritance and gift taxes. In the case of foreign residents, the tax liability applying to them is only that relating to property located in the territory of Poland. The percentage rate of the tax payable is progressive and ranges from 7% to 20%. This percentage rate depends on the relation between the inheritor and legator, and between the gift recipient and its donator, and also on the value of the property. Real estate tax applies to all sectors, including the private and state institutions; it concerns non-agricultural buildings and lands. The annual rate per m² for other lands is PLN 0.09, for residential buildings PLN 0.49 and for buildings for commercial purposes PLN 16.83. Tax on agriculture and forestry takes into consideration also the measure and type of crops.

Property tax in Hungary is imposed by the authorities of the local administration, on lands and buildings. In the case of buildings it is at most HUF 900 per m² annually, or 3% of the market price, in the case of land it is at most HUF 200 per m² annually, or 3% of the market price. Inheritance tax ranges from 2.5% to 21%. Gift tax relates to the value of the gift higher than HUF 150 000. The tax rate is the same as in the case of inheritance tax.

In the Czech Republic the real estate tax is governed in Act No 576/2002 Z. z. It comprises building tax and land tax. In the case of structure tax the tax base is the measure of the structure in m². Tax rate moves from CZK 1 per m² up to CZK 10 per m². The tax rate for lands is from CZK 0.10 per m² up to CZK 1 per m². Inheritance and gift tax has not been cancelled. Real-estate conveyance and transfer tax is, as in Slovakia, 3% of the tax base.

There is no such a thing as a perfect tax policy for any country. Therefore, any absolute copy or imitation of a different tax system is inappropriate. In most cases a combination of taxations is undertaken, while taking account of modern trends in tax practice and theory.