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Selected Tax Rules in the Polish Financial Law Literature²

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Abstract

The aim of the article is to characterise selected tax principles included in the Polish financial law literature. Legal academics and commentators widely emphasise that these principles are extremely crucial for the tax system. They express the postulates to which a properly designed tax, as well as a rational tax system, should correspond. In view of the fact that the academic discourse has been emphasising for many years that tax law is of low quality and thus difficult and costly to apply, as well as the low assessment of tax regulations enacted as part of the so-called Polish Deal, it was considered appropriate to remind the significance of the most important of these models, the content of which was expressed as tax principles.

Keywords: tax rules, Polish financial law, rational tax system.

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Wybrane zasady podatkowe w literaturze dotyczącej polskiego prawa finansowego³

Streszczenie

Celem artykułu jest przedstawienie charakterystyki wybranych zasad podatkowych zawartych w literaturze polskiego prawa finansowego. W doktrynie powszechnie podkreśla się, że zasady te odgrywają niezwykle istotną rolę dla systemu podatkowego. Ich treść wyraża postulaty, którym powinien odpowiadać prawidłowo skonstruowany podatek i racjonalny system podatkowy. Mając na uwadze to, że w dyskursie naukowym od wielu lat podkreśla się zarówno fakt, że tworzone prawo podatkowe jest niskiej jakości – co czyni jego stosowanie trudnym i kosztownym – jak również niską ocenę regulacji podatkowych uchwalonych w ramach tzw. Polskiego Ładu, za celowe uznano przypomnienie znaczenia najważniejszych z tych wzorców, których treść wyrażona została w postaci zasad podatkowych.

Słowa kluczowe: zasady podatkowe, polskie prawo finansowe, racjonalny system podatkowy.

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Introduction

The financial law literature defines tax rules, *inter alia*, as criteria of the perfect tax system that performs functions outlined by law and determining certain conditions and assumptions to be observed by a specific tax structure.⁴ It is indicated that these are conditions to be observed by a properly constructed tax system and individual taxes,⁵ and they are also defined as ideas of tax thought addressed by science to the legislator and to tax practice,⁶ as well as they are identified with rules of conduct, binding guidelines, the observance of which leads, or is to lead, to praxeological or axiological results.⁷ Their evolution relates to the transformation of tax systems themselves, as well as specific taxes,⁸ and is a result of changes to social, economic and political systems. They reflect the so-called spirit of the times that conveys the ideological climate of a given epoch. Therefore, they include postulates that pertain to fundamental values, including ethical ones, on which the mechanisms of the state should be based, economic or praxeological rules and rules of purely technical significance.⁹ These are the postulates formulated by the tax doctrine, the observance of which should lead to the proper functioning of taxes in a given state. It should be also emphasised that for many years the legal and financial literature has drawn attention to the fact that the quality of tax law is unsatisfactory, as it is ambiguous and vague for both taxpayers and tax authorities, and thus its application is difficult and cost-intensive. Bearing the above in mind, it seems appropriate to recall the meaning of selected tax principles, i.e. standards in view of which tax law should be created, the characteristics of which can be found in the extensive literature of Polish financial law. This objective is also not insignificant in view of the low-quality legal and tax regulations enacted as part of the so-called Polish Deal which came into force on 1 January 2022.

⁴ N. Gajl, *Modele podatkowe. Podatki dochodowe*, Warszawa 1995, p. 10; eadem, *Teorie podatkowe w świecie*, Warszawa 1992, p. 140.

⁵ J. Głuchowski *Polskie prawo podatkowe*, Warszawa 1993, p. 8.

⁶ C. Kosikowski, *Podatki. Problem władzy publicznej i podatników*, Warszawa 2007, p. 83.

⁷ B. Brzeziński, W. Nykiel, *Zasady ogólne prawa podatkowego*, [in:] B. Brzeziński (ed.), *Prawo podatkowe. Teoria. Instytucje. Funkcjonowanie*, Toruń 2009, pp. 136–137.

⁸ B. Kucia, *Zasada sprawiedliwości podatkowej w ujęciu historycznym*, "Roczniki Nauk Prawnych" 1998, 8, p. 291.

⁹ W. Nykiel, *Zasady podatkowe*, [in:] B. Brzeziński (ed.), op. cit., p. 13.

Characteristics of Selected Tax Rules

The author of the first and most important tax rules is Adam Smith, an 18th-century English economist.¹⁰ As emphasised in reference books, Smith's rules opposed the mercantilism-based views, *id est* the state's advantage over the individual's interest, the great constraints of economic life and extreme fiscalism.¹¹ They were, therefore, characterised by a distrust of the state and public economy and a tendency to subordinate it to the interests of capitalist undertakings.¹² These postulates include: equality (uniformity), certainty, convenience and cheapness of taxation.

The rule of tax uniformity makes an attempt to answer the question concerning the proper distribution of tax burdens, while the other rules are strictly technical. The literature emphasises that such rules should be applied in each social, political and economic systems, as they determine the quality of the tax system. For this reason, probably, various representatives of the doctrine of financial law formulated them in a similar interpretative manner.¹³

Smith's idea of tax uniformity is based on the theory of benefit equivalence, whereby tax is a 'fair price' paid by citizens to the state. Smith held that this fairness was expressed in the universal and proportional taxation of income.

According to the certainty of taxation, clear and precise laws should specify a deadline for tax payment, its amount and method of payment. The literature points out that it was an expression of opposition to the tax fraud committed by those in power at that time in the form of double or even multiple collection of the same taxes within one year. Moreover, it was an expression of protest against any form of tax abuse committed by the tax administration.¹⁴ In Smith's time, tax collection was based on a strong power of tax collectors, who, primarily to achieve their own financial benefits, were above the rules of taxation and covered lump sums paid to the State Treasury by collecting much higher and freely determined amounts from individual taxpayers and their groups.¹⁵ According to Smith, the lack of implementation of the principle of certainty in taxation is conducive to voluntarism and corruption, but bribery is characteristic of the tax administration and taxpayers. Therefore, the principle of certainty requires the taxpayer to know – on the basis

¹⁰ A. Smith, *Badania nad naturą i przyczynami bogactwa narodów*, Vol. 2, Warszawa 2007, pp. 500–503.

¹¹ R. Rybarski, *Nauka skarbowości*, Warszawa 1935, p. 199.

¹² Z. Fedorowicz, *Historia podatków do końca XIX wieku (ze szczególnym uwzględnieniem Polski)*, [in:] C. Kosikowski (ed.), *Encyklopedia podatkowa*, Warszawa 1998, pp. B/63.

¹³ N. Gajl, *Modele podatkowe...*, p. 11.

¹⁴ Z. Fedorowicz, op. cit., p. B/64.

¹⁵ A. Gomułowicz, *Mysł podatkowa Adama Smitha*, [in:] A. Gomułowicz, J. Małecki, *Podatki i prawo podatkowe*, Warszawa 2011, p. 35; Z. Fedorowicz, op. cit., p. B/64.

of the relevant legislation – what his or her obligations and powers are with respect to the determination and payment of the tax in question.¹⁶ The compliance with this principle is of such great importance that the author considered tax uncertainty to be worse than inequality in taxation. As he claimed: ‘even very unevenly distributed taxes are not approximately as bad as the great evil is even a small degree of uncertainty in this respect.’¹⁷

The postulate concerning the convenience of taxation pertains to two crucial elements, *id est* the date and method of tax collection.¹⁸ According to Smith, taxes should be collected at such a time and in such a way that the taxpayer is able to pay them as conveniently as possible.¹⁹ The literature of financial law considers, which is fully consistent with the doctrine of liberal economic thought, that the aim of the principle of the convenience of burden formulated in such a way was to defend taxpayers against too high taxes.²⁰ It must thus be concluded that the convenience of taxation is fulfilled if the time limit for payment of the tax is set, taking account of the economic conditions relating to the generation of revenue and the manner in which the tax is collected is adapted to the specific characteristics of direct and indirect taxation.²¹ In indirect taxes, essentially those of the consumption type, the convenience is that the tax burden is gradual as goods and services are purchased.²² However, the legal structure of other taxes complies with this requirement if they are collected when it is most probable that the taxpayer has sufficient income to pay the tax.

The principle of economy of taxation combines several threads that are bonded by considerations about ‘a reasonably applied tax’.²³ As is noted in the doctrine of financial law, this principle cannot be considered too narrowly, but only as an attempt to achieve the lowest possible costs of operation of the financial apparatus, because in terms of social interests of the whole economy, it is important to limit all costs of determining and collecting taxes, regardless of who bears them.²⁴ First of all, the postulate of the economy of taxation should be applied to the costs of tax collection. Smith postulates that the costs of collection and possible enforcement

¹⁶ M. Weralski, *Pojęcie podatku*, [in:] idem (ed.), *System instytucji prawno-finansowych PRL*, t. 3: *Instytucje budżetowe*, Warszawa 1985, p. 51.

¹⁷ A. Smith, op. cit., p. 501.

¹⁸ A. Gomułowicz, *Mysł podatkowa Adama Smitha...*, p. 38.

¹⁹ A. Smith, op. cit., p. 502.

²⁰ N. Gajl, *Teorie podatkowe...*, p. 49.

²¹ A. Gomułowicz, *Mysł podatkowa Adama Smitha...*, p. 38.

²² J. Szolno-Koguc, *Reforma polskiego systemu podatkowego w latach 1990–1995 (założenia a realizacja)*, Lublin 2000, p. 36.

²³ Ibidem, p. 40.

²⁴ M. Weralski, *Pojęcie podatku...*, p. 51.

should be kept as low as possible. The tax administration should be low-cost, *id est* based on simple activities that do not require the employment of a large number of personnel and complex forms and scope of controls.²⁵ The more extensive the tax system is, the greater part of tax revenue is absorbed by civil servants' salaries. In this case, the economy of tax collection is synonymous with the application of such an assessment, which results in the maximisation of tax revenue possible under given conditions.²⁶ The observance of the principle of economy of taxation also requires that the tax burdens are shaped in such a way that they do not have an anti-motivational effect on taxpayers.²⁷ Otherwise, the state budget suffers losses, which are caused by increased unemployment, a slowdown in consumption or limited activity of capital.

In the context of the principle of the economy of taxation, Smith also pointed out that taxpayers committing tax fraud should be punished with appropriate fines, *id est* proportional to the damage caused to public income. In his view, the application of disproportionately large fines, including the confiscation of assets, brings losses to the society as a whole, since it does not benefit from the advantages which could be obtained by mobilising the capital of those taxpayers.²⁸ Justifying the above, this author states that the law first creates temptation and then punishes those who are tempted.²⁹

Not only is the principle of economy of taxation connected with issues related to the collection of taxes, but also with the technique of its assessment. Respecting this postulate requires limiting the costs incurred by taxpayers in connection with the payment of taxes due. In view of the above, it would appear that only a tax system which complies with the principle of the simplicity of taxation satisfies this requirement. This is a consequence of the quite obvious fact that taxpayers who are certain of their behaviour within the scope of tax obligations set by law do not have to use any additional and highly paid legal assistance of tax advisors, which would unjustifiably increase the costs of the tax assessment of their tax liabilities. Moreover, the implementation of the principle of the simplicity of taxation significantly reduces the number of taxpayers' disputes with tax administration bodies and administrative court proceedings and directly contributes to the implementation of the economy of taxation postulate.

In the reference books, the most famous – apart from Adam Smith – supporters of liberalism in the economy include David Ricardo and Jean-Baptiste Say. David

²⁵ N. Gajl, *Modele podatkowe...*, p. 16.

²⁶ A. Gomułowicz, *Zasady podatkowe wczoraj i dziś*, Warszawa 2001, p. 20.

²⁷ R. Zieliński, *Personalizacja w systemie obciążeń dochodów osób fizycznych w Polsce*, Warszawa 2019, p. 28.

²⁸ *Ibidem*, p. 22.

²⁹ A. Smith, *op. cit.*, p. 503.

Ricardo is known as the author of the so-called Edinburgh rule³⁰ – one of the models for establishing a rational tax policy.³¹ The implementation of this principle boils down to such shaping of tax burdens as a result of which the income and asset situation of each taxpayer before and after the imposition of tax will not change significantly.³² The above assertion is the basis for the order that public authorities should exercise prudence and moderation in imposing tax burdens. The Edinburgh rule is therefore the cornerstone of the principle of tax neutrality and the principle of the protection of tax sources. These postulates are of particular importance both from the point of view of protecting the financial interests of citizens and the state, since high tax burdens, which in turn undermine the tax source, effectively hamper the economic development and thus endanger the state's existence.³³

J.B. Say's postulates were largely consistent with Smith's theses and corresponded to the general principles of liberal economics, according to which taxes should be small and neutral.³⁴ Say postulated that the tax system should comprise a moderate number of taxes which would be fairly distributed, and not burden taxpayers without sufficient benefit to the State Treasury.³⁵ Moreover, taxes should harm reproduction as little as possible and should not contradict the principles of morality, *id est* customs useful to society.³⁶ The doctrine of financial law also noted that Say postulated to assess the entire tax system, and not individual taxes. He asserted that the assessment of individual taxes could not determine the assessment and quality of the entire tax system.³⁷

However, the authors of a new direction of thinking about taxes, originating in the 'socialism of university chairs' (university socialism), assumed that taxes not only served accumulating public income, but also fulfilled broadly-understood social, political and social functions (the so-called concept of social policy – *Sozialpolitik*). Such an approach to taxes results from the historical context in which such postulates were made. According to it, tax issues should be considered in the context of all activities of state and tasks of the state to be performed by the state,

³⁰ The term 'Edinburgh rule' stems from the article by D. Ricardo published in 1823 in "The Edinburgh Review".

³¹ D. Ricardo, *Zasady ekonomii politycznej i opodatkowania*, Warszawa 1957, p. 168 et seq., p. 17; A. Gomułowicz, *Mysł podatkowa Davida Ricardo*, [in:] A. Gomułowicz, J. Małecki, op. cit., p. 53.

³² The original name was: 'Leave them as you find them'.

³³ R. Zieliński, op. cit., p. 29.

³⁴ N. Gajl, *Teorie podatkowe...*, p. 54.

³⁵ R. Zieliński, op. cit., p. 29.

³⁶ *Ibidem*.

³⁷ N. Gajl, *Teorie podatkowe...*, p. 55.

including social welfare tasks, with a view to making the welfare state a reality.³⁸ The literature of financial law considers A. Wagner to be the best-known representative of this research trend and acknowledges that in the field of taxation he laid the foundations for their good and economic use as an effective instrument of non-fiscal influence.³⁹ This author classified four groups of tax rules, such as fiscal rules, economic rules, the principle of tax justice and principles of taxation technique.

Wagner's fiscal rules that included desiderata on productivity (sufficiency) and tax elasticity were designed to ensure that tax revenues were sufficiently high to cover public expenditures to be financed by the state. At the same time, as Wagner claimed, the legal structure of taxes should result in an appropriate increase or decrease in revenues collected with their help for public purposes, depending on the changing level of public expenditures.⁴⁰ The author pointed out that the need to finance the tax revenue requirement existing at a given time is justified and rational if there are no other sources of financing or if other means and methods of increasing the budget revenue are unacceptable.⁴¹

The aim of economic principles, which included the principles of the inviolability and protection of tax sources (*id est* capital and assets), was to guarantee the development of economic entities and to multiply capital by entrepreneurs.⁴² According to this postulate, the appropriate (*id est* reasonable) tax burden is deemed to be that which retains the source of taxation in a substantially non-deteriorated condition. It follows from the above that in formulating the discussed principle, Wagner directly referred to the Edinburgh rule established almost 150 years earlier by D. Ricardo.

The reference books emphasise that one of the basic prerequisites for the construction of the tax system is to take into account the principle of sustainable tax efficiency, meaning that the tax is sufficient and capable of growth.⁴³ This principle is considered to be a measure for assessing the correctness of the choice of the source of taxation. The source of a tax determines the technical elements of a specific tax, *id est* its subject matter, the type of tax base and the tax scale. Therefore,

³⁸ C. Kosikowski, op. cit., p. 84.

³⁹ The founders of the German Historical School also include: L. von Stein and A. Schäffle. See: N. Gajl, *Teorie i zasady podatkowe*, [in:] C. Kosikowski (ed.), op. cit., p. A/51.

⁴⁰ Z. Fedorowicz, op. cit., p. B/72.

⁴¹ A. Gomułowicz, *Mysł podatkowa Adolfa Wagnera*, [in:] A. Gomułowicz, J. Małecki, op. cit., p. 65.

⁴² R. Zieliński, op. cit., p. 30.

⁴³ J. Szolno-Koguc, op. cit., p. 37.

a rational choice of source of taxation is deemed to be one which allows account to be taken of the taxpayers' ability to pay.⁴⁴

Among the tax rules proposed by Wagner in economic and legal-financial literature, the most controversial is the tax justice postulate. In his opinion, the determinants of tax justice are its universality and progressiveness. This concept of tax justice was explained by the fact that the representatives of the German historical school strongly emphasised non-fiscal functions of the tax, including, but not limited to, the redistributive tax function. According to this author, tax burdens should be distributed in accordance with the principle of the taxpayer's ability to pay.

Wagner's principles of taxation technique largely reproduced Smith's postulates on taxation technique, *id est* the principles of certainty, convenience and economy, but with the difference that Wagner had a different perception of tax convenience. He averred that it had to take into account the interests of taxpayers and of tax authorities, as only then could budget revenues be guaranteed.⁴⁵

As indicated in the literature of financial law, the tax principles formulated by the contemporary representatives of the doctrine of financial law constitute, to a large extent, a criticism or modification (according to the changing economic, social and political conditions) of the tax postulates formulated in the 18th and 19th centuries.⁴⁶ For instance, A. Wagner's views were developed in the theses enunciated by F. Neumark who classified tax rules into four groups: 1) fiscal and budgetary rules, 2) ethical and social rules, 3) economic rules and 4) taxation technique rules.⁴⁷

According to the fiscal and budgetary rules, taxes should primarily serve to ensure state budget revenues, but only to the extent necessary to finance its tasks. This author asserted that it allowed making an optimal budget, *id est* the one that does not infringe the limits of taxation.⁴⁸ The ethical and social postulates, however, pertained to the uniformity and universality of taxation and took into account the principles of tax redistribution of income and property.⁴⁹

⁴⁴ W. Nykiel, op. cit., p. 17.

⁴⁵ A. Gomułowicz, *Mysł podatkowa Adolfa Wagnera...*, pp. 67–68.

⁴⁶ Idem, *Zasady...*, p. 10; M. Kosek-Wojnar, *Zasady podatkowe w teorii i praktyce*, Warszawa 2012, pp. 79–80.

⁴⁷ C. Kosikowski, op. cit., p. 84; A. Gomułowicz, *Mysł podatkowa Fritza Neumarka*, [in:] A. Gomułowicz, J. Małcki, op. cit., p. 70. By the way, it should be stressed that Neumark's postulates criticise the theses formulated by H. Dalton who held that the rationality of the tax system was not determined by science, but by the tax policy derived from the economic, social and political policy of the state, cf. H. Dalton, *Principles of Public Finance*, Łódź 1948.

⁴⁸ A. Gomułowicz, *Mysł podatkowa Fritza Neumarka...*, p. 71.

⁴⁹ E. Wdowiarsz-Florek, *Ewolucja postulatów i zasad prawa podatkowego*, "Administracja. Teoria – Dydaktyka – Praktyka" 2015, 1, p. 210.

The economic principles proposed by this author pertained to the impact of the tax on the economy.⁵⁰ According to Neumark, the role of taxes is to stimulate the economy and its development. The reference books note that this author assessed the usefulness of a specific tax through the prism of fiscal, social and economic consequences of its application. He averred that when imposing taxes, it is necessary to observe how the fiscal efficiency of a specific tax affects income from other tax sources and the strength and growth of the economy.⁵¹ It follows from the above that the tax burden should be adjusted to the level of economic development, decreased during the recession and increased during the prosperity. Neumark's rules of tax technique comprised both the postulates of the economy and convenience of tax collection accepted in the doctrine of financial law since Smith's time, as well as new principles propounded by him, *id est* the principle of the permanence of tax law, the principle of tax transparency and the principle of the internal cohesion of the tax system. In his opinion, the aforesaid postulates should be considered as a special value, as they can ensure the stabilisation and certainty of tax burdens and safe planning of business activity.⁵² Neumark identified the postulate of tax transparency with the communicativeness and comprehensibility of tax regulations, which was to lead to the reduction of tax authorities' abuse related to the extreme fiscal interpretation of tax obligations.⁵³

A different perspective on the tax rules was given after World War II in socialist countries.⁵⁴ It resulted from general systemic assumptions of Central European states and their views on the role of the state as the dominant entity in the economic life, leading and managing the entire economy in a prescriptive and administrative mode.⁵⁵ It should be emphasised that the then science did not establish any tax principles specific to socialist tax systems;⁵⁶ only the so-called revision of tax principles was conducted, the aim of which was to reject those principles which were contrary to socialist assumptions or to modify their application to these assumptions.⁵⁷ According to the assumptions adopted at that time, the tax system was to perform class functions and to support the construction of a socialist society and economy. Therefore, the tax rules formulated in those countries, including the

⁵⁰ Ibidem, p. 211.

⁵¹ M. Sosnowski, *Znaczenie zasad podatkowych dla systemu podatkowego*, "Finanse, Rynki Finansowe, Ubezpieczenia. Zeszyty Naukowe Uniwersytetu Szczecińskiego" 2012, 52, p. 67.

⁵² Ibidem.

⁵³ A. Gomułowicz, *Zasady...*, p. 26.

⁵⁴ W. Wójtowicz, *Pojęcie i charakter podatku jako dochodu publicznego*, [in:] eadem (ed.), *Prawo podatkowe – część ogólna i szczegółowa*, Bydgoszcz 2005, p. 40.

⁵⁵ Ibidem.

⁵⁶ A. Komar, W. Łączkowski, *Finanse i prawo finansowe*, Warszawa 1985, p. 102.

⁵⁷ M. Weralski, *Zasady podatkowe*, [in:] idem (ed.), op. cit., p. 44.

People's Republic of Poland, were primarily based on the postulate of inequality and class and implied a different treatment of taxpayers in identical tax law situations. The foregoing means that the science of financial law, including tax law, was relegated to a servile role related to the political and economic system.⁵⁸

The social, political and economic transformations conducted in those countries resulted in changes in their tax systems towards a return to the classical tax principles. Referring only to the achievements of selected representatives of the Polish doctrine of financial law, it can be pointed to the catalogue of tax principles formulated by Natalia Gajl.⁵⁹ The author drew attention to the need to expand the catalogue of the so-called classic tax principles (*id est* the principles of tax justice, the economic, certainty, convenience and economy of taxation) by two new postulates, which – in her opinion – constituted a good tax system. These include the principle of the statutory nature of taxation and the principle of internal and external cohesion of the tax system.⁶⁰ In her presentation of the idea of the statutory form of tax adoption, the author pointed out that its observance had a positive impact on the quality of tax legislation but, on the other hand, it contributed to the implementation of the principle of tax certainty, as it allowed for less frequent amendments, which in turn were possible when issuing secondary legislation.

The implementation of the principle of the internal and external cohesion of the tax system required, in her opinion, ensuring coherence between individual taxes, their detailed construction, as well as synchronisation of tax constructions with all applicable laws, including administrative, civil and international law solutions. The lack of such synchronisation may lead to an economically and financially unjustified multiple burden, as well as to an increase in tax shifting. Moreover, it is necessary for the tax system to be coherent with other financial activities and the state's financial policy in this field. As argued by N. Gajl, the implementation of the principle of external coherence of the tax system was also connected with the process of tax harmonisation, which, *inter alia*, would contribute to the equalisation of burdens between countries.⁶¹

On the other hand, Andrzej Gomułowicz⁶² has presented a comprehensive systematics of tax rules. While conducting a thorough analysis of the classical tax principles, the author has made a catalogue of contemporary postulates to be met by a properly constructed tax system and included the principles of tax technique, the economic principles of taxation, the principles of tax shifting and the principles

⁵⁸ B. Kucia, op. cit., p. 300.

⁵⁹ N. Gajl, *Teorie podatkowe...*, p. 158.

⁶⁰ *Ibidem*, pp. 141–142.

⁶¹ *Ibidem*, p. 157.

⁶² See: A. Gomułowicz, *Zasady...*, and *idem*, *Zasada sprawiedliwości podatkowej*, Warszawa 2001.

of tax ethics.⁶³ He holds that the principles of tax technique in the contemporary understanding aim at securing a taxpayer's rights against the risk of their violation by the tax legislator and tax authorities.⁶⁴ Therefore, they should include the principle of tax certainty, the principle of tax convenience and the principle of the economy of taxation.⁶⁵ The tax certainty is manifested by the exclusivity of statutory regulations in shaping tax obligations, non-retroactivity of tax law, observance of the principle of rightly acquired rights and the rule of openness, which is closely related to the postulate of respecting the appropriate *vacatio legis* period by the legislator. The principle of tax convenience should be considered in terms of the correctness of tax law procedures and their impact on specific legal guarantees of the taxpayer, as well as the application of tax law.⁶⁶ This means that tax law regulations comply with this criterion if they are clear (communicative and understandable) for taxpayers, while tax authorities are able to ensure a balance between the public interest and the private interest of taxpayers by applying the law. The interpretation of the principle of economy of taxation in the contemporary science of financial law does not differ from the principle enunciated by A. Smith and applies both to taxpayers and the State Treasury.

As for the economic principles of taxation, A. Gomulowicz claims that the same problems that the representatives of the classical tax science had to deal with now remain to be solved, however, the dimension and scale of these problems have changed.⁶⁷ Therefore, in his opinion, the economic principles include the principle of choosing the source of taxation, the principles of the construction of the tax system, the principle of limiting fiscalism and the principle alternative to progression. The choice of the source of taxation should take into account the following issues.⁶⁸ Firstly, the sources of tax revenue should be comprehensive and mutually consistent. Secondly, it is important to choose sources which, while providing sufficient resources, minimise the 'unintended private market behaviour'. Thirdly, the choice of a tax source should not annul the economic growth and should, therefore, be investment-friendly. Fourthly, the sources of both direct taxation and indirect taxation should be remembered.

The creation of the tax system should, however, be based on the fundamental assumption whereby it should take account of the activities of individuals which

⁶³ R. Zieliński, op. cit., p. 34.

⁶⁴ A. Gomulowicz, *Zasady...*, p. 27.

⁶⁵ Ibidem, pp. 28–29.

⁶⁶ Ibidem, p. 33.

⁶⁷ Ibidem, p. 54.

⁶⁸ Ibidem, pp. 54–57.

may give rise to the 'tax revenue' and of the activities of business entities.⁶⁹ Therefore, the construction of tax system must be based on the standards resulting from the clause of a democratic state of law and take into account the postulate of rationality, ordering the creation of target solutions. On the other hand, the aim of the observance of the principle of limiting fiscalism is to shape the tax burden in accordance with the individual subjective payment capacity of the taxpayer, and thus it enables the application of personalisation in taxation, whereas the implementation of the principle alternative to progression assumes the adoption of the concept of proportional taxation as more 'friendly' for individuals and entrepreneurs, 'friendly' for the economy (due to its neutrality towards economic processes) and 'friendly' for the state budget (due to the fact that it encourages the acceptance of the level of tax burdens).⁷⁰

Referring to the principles of tax shifting, A. Gomułowicz notes that, on the one hand, this phenomenon complicates the tax system and, on the other hand, it is objectively impossible to eliminate it. Therefore, the design of the tax system, and hence of the amount of tax burden, must take into account both the extent and degree of tax shifting, and its economic and social consequences.

The rules of tax ethics require the legislator to shape and distribute the tax burden among taxpayers in such a way that it is considered fair as, according to A. Gomułowicz, only then is the income function of the tax efficiently performed and there are grounds for the effective implementation of tax reforms.⁷¹

Conclusions

Concluding the previous considerations, it should be stated that tax principles are widely discussed in the Polish financial law literature. This is primarily due to their indisputable role and importance for the tax system. Financial law academics and commentators have always looked for models according to which individual taxes should be created, thus building a rational and efficient tax system. Tax principles, on the other hand, as it is argued in the literature, indicate those structural features of taxes that are favourable to the proper formation of the tax system or whose absence causes its inefficiency, as well as present a certain axiological order and implement the values that, in the opinion of the state and citizens – tax-

⁶⁹ Ibidem, p. 58.

⁷⁰ Ibidem, pp. 63–64.

⁷¹ Ibidem, p. 106; E. Lotko, *Konstytucyjny obowiązek płacenia podatków a spójność aksjologiczna*, „Prawo i Więź” 2021, 4, s. 563–564.

payers, are the most important.⁷² It is therefore clear that, because of the complex social and economic relations subject to taxation, the tax rules will always constitute a kind of determinant of what is considered to be appropriate, fair, socially and economically rational in establishing and altering the efficient and effective tax system.⁷³ In this context, it seems appropriate to recall the importance of the most important of these models. This task seems to be particularly important also due to the fact that the legal and tax regulations enacted as part of the so-called Polish Deal are commonly assessed as characterised by a high degree of vagueness and complexity, and their amendments are made ad hoc and in haste. Therefore, it may be presumed that the tax principles, which are well known to the Polish financial law academics and commentators and whose observance guarantees the proper functioning of individual taxes and the entire tax system, were completely ignored in the legislative process, which is indeed regrettable.

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⁷² Ibidem, p. 291.

⁷³ M. Sosnowski, op. cit., pp. 69–70.

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