

AGRICULTURAL TAX IN SCOPE OF LEGAL REGULATIONS

Agnieszka Koryś¹

Summary

The concerns for agricultural tax were regulated in the Agricultural Tax Act on 1984. In this Act, as amended, the subject of agricultural tax was determined, definitions of agricultural farm and taxpayer were given. More precise principles in taxation, allowances and exemptions were specified. Nevertheless, laws and regulations have unsatisfactory result and some of them are controversial. Polish solutions differ from the solutions adopted in other EU countries, where the agriculture was incorporated in the general tax system in “old 15” group. This scientific papers present the binding laws and regulations. Also unexplained or disputable matters were summarised. The general source of agricultural tax regulations is above specified Act comprehensively covering the subject matters. Despite the adopted controversial solutions, it has not resulted in general interest of commentators on subject matter, therefore the literature concerning agricultural tax is limited.

Key words: tax, agriculture, law, regulations, Poland.

Introduction

The purpose of this scientific papers is to present the legal aspects of agricultural tax system in Poland. Tax recounting rate based on type of agricultural land, qualitative soil classification, taxation district and price of rye per quintal leads to the general troubles in homogenous classification of tax as property tax, income tax or revenue tax. Such construction resulted in the attributes of direct tax, whereas agricultural farms in Polish tax system are exempted from income tax. Such solution considerably constraints the common taxation principle. The aim of this papers,

¹ M.A., Economic University in Wrocław, Poland.

despite the description of existing regulations, is to present the imperfections and controversies in tax system and to signalize the need for changes in subject law.

Taxes result from many centuries of own tradition. Tithe is pointed out in Bible. In ancient Egypt, state collected a proportion of crops from population. Crops were relocated to the military purposes and state administration, thereafter. Crop-based tax system was one of the oldest tax systems in Poland. It was described in the fourteen and fifteen century constitutions. It was also described by renowned ethnologist, tourist and historian, Zygmunt Gloger, in the *Staropolska Encyclopaedia* issued in 1900 year.

Tax construction, beneficiaries, the ways for charging and collecting officials or institutions have been changing during ages. Nowadays, it is also a subject of modifications, but in terms of agricultural and property tax such changes are insufficient. The majority of changes should have resulted from the altering social and economic reality, state politics and the necessary regulations to be adopted from international institutions we are a member of. The discussion about the changes in recounting and charging system for the agricultural tax and property tax purposes in Poland returns from time to time, whereas some political parties representing legislative powers, altogether with the sole addressees supported by Chambers of Agriculture, are unwilling to any changes. In 2012, when the discussion for the implementation of agricultural income-based tax system (beginning with 2014 year) emerged, the members of regional Chambers of Agriculture were strictly objective in order to cease and withdraw from any changes in this subject matter. ²

Tax is not homogeneous in definition

The scientific papers present various aspects, economical, legal, political and interrelating with each other. Nevertheless, they are focused on various properties of tax system. Various taxes have distinct properties which can be characterised as follows: are a common, imposed, gratuitous and non-refundable service in money; are collected by a state or governmental association (i.e. municipality); have legal basis stipulating the amount, terms and conditions for its charging and collecting; are levied in order to finance the given public services. When it comes to the imposition of taxes, the

² Announcement of Members of the Board of Greater-Poland Chamber of Agriculture.

public authority should focus on the following properties of a tax: reliability, convenience, cheapness, justice (equality) and morality.^{3 4 5}

The common taxation principle means, that a tax should be recounted similarly for every person who is subject to charging, with the binding laws complied with.

Imposition of a tax is a form of subordination, where a taxpayer is obliged to pay a tax and such duty will be executed in the event of avoided payment.

Gratuity principle means a non-existing bond between the individual amount of tax collected and any services due or with the claims for any services towards the state. The right for performance of services is equal to all citizens, independently to the amount of accrued taxes. Non-refundable principle means the final and ultimate transfer of funds to the state treasury, which cannot be a subject of refunds.⁶ Equity and justice in taxation is the most important factor and principle in tax system recognized by A. Smith. "Tributaries of each state shall enforce the existence of a government strictly according to own abilities, this is in proportion to incomes obtained by each of them under the state protection."⁷

Agricultural tax in Poland

Agricultural tax, such as property, forestry and tax on transportation means, is a tax completely received by municipalities. It is a considerably specific tax. It is characterized with complicated recounting system different from the general taxation principles. It differs from the tax systems in the "old" European Union countries, where agriculture is incorporated in the general tax system.⁸

The subject of agricultural tax are lands classified in the lands and buildings register, like agricultural lands or forestry and shrubs growing on

³ A. Gomułowicz, J. Małecki, *Podatki i prawo podatkowe*, Ars Boni et Aequi Publishing Office, Poznań 1995 p. 56-64.

⁴ G. Szczodrowski, *Polski system podatkowy*, Wydawnictwo Naukowe PWN, Warsaw 2007, p. 15.

⁵ M. Blaug, *Teoria ekonomii. Ujęcie retrospektywne* Wydawnictwo Naukowe PWN, Warsaw 1994, p. 80.

⁶ R. Lipniewicz, *Prawo podatkowe w Polsce i w Unii Europejskiej*, PWSZ im. Witelona in Legnica Publishing Series, Legnica 2006, p. 4.

⁷ A. Smith, *Badania nad naturą i przyczynami bogactwa narodów*, PWN Warsaw 1954, Volume II, p. 584.

⁸ E. Ruśkowski, J. Salachna, *Ustawa o dochodach jednostek samorządu terytorialnego. Komentarz*, Dom Wydawniczy ABC Warszawa 2003. p. 32-41.

agricultural lands, except for the area of land occupied for the purposes of business activity other than agricultural activity.⁹¹⁰

Lands entered in the register are divided into the following groups:

- agricultural lands,
- forested lands,
- urbanized and build-up lands,
- ecological lands,
- wastelands,
- lands under waters,
- other lands.

Agricultural lands have distinctive symbols;

- arable lands have R symbol
- orchards have symbol with S
- regular grasslands have Ł symbol
- regular pasturelands have Ps symbol
- build-up agricultural lands have symbol with Br
- lands under ponds have Wsr symbol
- ditches have W symbol.

Lands with forests and shrubs have Lzr symbol¹¹.

All lands given above are agricultural lands and are a subject of agriculture tax system. Recounting system for agricultural lands is limited, therefore when a land is not classified as agricultural land, it constitutes a subject of property tax system.

Classification of lands as agricultural lands for taxation purposes often results from the individual interpretation of tax regulations and juridical orders. Such situation results from the lower value of agricultural tax levied on agricultural lands comparing to the property tax levied on similar lands. According to the verdict of Voivode Administrative Court in Cracow on 8 December 2011 (I SA/KR/1552/11), the commentary is as follows: “The assessment, whether a land is an agricultural land and should be levied according to agriculture tax, or it should be levied according to property tax, is based on the land classification in the lands and buildings register. Neither

⁹ R.I. Dziemianowicz, *The assessment of Polish agriculture tax solutions, comparing to the systems adapted in the selected countries of European Union*, Paragraph I, Białystok University of Economics Publishing House, p. 184.

¹⁰ *Agricultural Tax Act* (unified act, dated 24 October 2013, Journal of Laws 2013, Item 1381) par. 1.

¹¹ *Agricultural Tax Act*, Prof. Dr hab. Leonard Etel Commentary, C.H. Beck Publishing, Edition 3, 2009; Ministry of Administration and Digitalization Ordinance amending the registry of lands and buildings ordinance, dated 29 November 2013 (Law Journal 2013, item 1551 Par. 1 p. 47.

the factual exploitation of a property, nor its classification in the subsequent zoning plans have any influence, when such case is adjudicated.” Voivode Administrative Court in Lublin issued a similar commentary to own verdict (I SA/Lu728/11, dated 28 February 2012), adding “Information in the register is binding for tax authorities, therefore the authorities cannot enact individual decisions in contradiction.” The general principle is as follows: taxpayer questioning the validity of land and building registry entries should pursue the proceedings in order to amend the entries by registry office, and when claimant’s opinion is supported, a person may file for the verification of final decision on the amount of accrued taxes, according to the amended entries in the registry.¹²

Description of land and building registry

Land and building registry is a national unified and systematically updated database of lands, buildings and premises, with the distinction of owners and other individuals or legal entities controlling the rights on such lands, buildings and premises. It covers a set of data for proper identification of particular property, this is: identification number of registered parcel; area of land for registered parcel; information about the area of land within the parcel contours and land classification within the borders of registered parcel; land classification number for the registered parcel being a component of entry number; information from land and mortgage register; and in the event of not established land and mortgage register, indication of other documents confirming the ownership rights; information about the documents confirming the rights to the registered parcel other than ownership and perpetual usufruct rights; entry in the heritage register according to the separate Regulations on the Protection of Goods of Culture; identification of statistical zone, where a registered parcel is located; parcel address; identification of documents confirming the ownership rights. It contains also the value of land, and a date for vesting such value, if established. Unfortunately, the value of land is established very seldom, whereas it is very important when agriculture tax is levied.^{13 14}

¹² Verdict of Voivodeship Administrative Court in Warsaw on 19 June 2009 – III SA/Wa/127/09.

¹³ Geodesy and Cartography Code (unified act, dated 28 October 2010, Law Journal 2010, pos. 1287) par. point 8.

¹⁴ Ministry of Administration and Digitalization Ordinance amending the registry of lands and buildings ordinance on 29 November 2013 (Journal of Laws 2013, item 1551, art. 15).

Area of land for registered parcel is stipulated in hectares (ha). There are several recounting methods in order to reduce the deviations in measurements. Area of land is a key attribute for objects in the land and building register. What is more, it is an important information for proper execution of zoning plans and in investment proceedings. In context of modern land registry purposes and related actions, the precise measurement technique has great importance.¹⁵

Land classification of Polish soils is based on the productivity factor of soils. The value is ascertained according to the morphological features of soil in overall profile and the physical properties altogether with the chemical properties of terrain, moisture factor, location etc.¹⁶

Arable lands are divided into flatlands, uplands, lowlands and mountainous lands. 9 classes are discerned: I, II, IIIa, IIIb, IVa and IVb, V, VI, and VI R2.

RI class – the best arable lands: location is physiographically convenient, contains well established humus fraction (sweet humus), has relevant water and air properties, is rich in nutrition. Crops are high and reliable: wheat, white beet, vegetables, colza, alfalfa and other plants with considerable soil requirements can be cultivated. It covers the best types of soils: chernozem, silts, black earth, rendzina, brown soils.

RII Class – very good arable lands: water and physiological properties are a bit worse comparing to RI; are more demanding in cultivation. The same plants can be cultivated as at RI class lands, but crops are less stable. This class consists of the same soils as in RI class, but soils are slightly less productive, with thinner humus fraction and worse structure.

RIII class – good arable lands: contain less humus and have considerably worse physical and chemical properties comparing to above soils; water level in soils fluctuates considerably; may be a bit acidulated and exploited. When such soils are well cultivated, may be proper for: wheat, white beet, vegetables. At lighter soils considerable crops may be obtained from: rye, barley, oat, potatoes. This class consists of various clays, fine soils and loams or loamy sands with more consistent underlay fraction.

RIIIb Class – average arable lands: are located very often at undulated terrains; have worse physical and chemical properties comparing to IIIa class; are periodically too dry or too humid; alternatively, in favourable weather conditions and with proper agriculture technology may give high output for plants demanding good soil properties. This group generally

¹⁵ “Acta Sci. Pol., Geodesia et Descriptio Terrarum” 10(3) 2011, ISSN 2083–8662 (online) p. 30.

¹⁶ Evaluation based on: Classification and typology of Polish soils 1989 – part 2.

consists of: colluvial brown earth, black earth and silts on sandy underlay fraction and on more consistent rocks.

RIV class – average arable lands: are rich with nutrition, but are poorly ventilated, are earthy, tough in cultivation and require drainage. Light soils in this class are well for rye and potatoes; and with proper cultivation and in favourable precipitation, also barley, oat, fodder beet and wheat can be cropped.

RIVb class – average (worse) arable lands; heavy soils are too humid in damp periods and too dry in dry periods; light soils have small water retention. In this class, at heavy soils fodder blends, swede, oat, clover are well cropped; whereas the soils with lighter composition, gravels, very fine loams with more consistent underlay fraction, are excellent for rye and potatoes.

RV class – poor arable lands: soils at rocky fraction with fine granulation, too permeable, not so rich in nutrition, often acidulated. This class consists of too humid soils, soils not drained or soils not suitable for damping. The light soils are well for rye, lupine, occasionally potatoes; whereas heavy soils are too humid for fodder plants.

RVI class – poorer arable lands: very fine sands or with poor clay content, too permeable, too dry, insufficiently nutrient, heavily acidulated; or rocky, too humid, cold soils with peaty humus. Alternative cultivation of lupine and rye results in weak crops.

VI R2 class – soils for afforestation: fine sands, gravels; very humid and with poor nutritious content. Are useless in cultivation, should be afforested.

Estimation of **land value** is based on the estimation of ownership rights value and of other proprietary rights. Property assessors are conducting the property appraisals. Evaluation is done in form of appraisal reports.¹⁷ Several methods for appraising the property exist. Comparative method is a basic one. It is employed in almost every case. The other three methods (restoring, income-based and mixed) are used seldom. When met conditions are a restriction for the comparative or income-based method, the market value of a property is assessed according to mixed methodology. Restoring method is used as last resort due to its disadvantages.

Comparative method is the most often employed appraisal methodology of a property. Assessors use this method in over 90% of appraisals. The property evaluation is done according to the prices obtained for the properties similar to the appraised property. The price is corrected in respect to the particular differences in the appraised property comparing to other properties, and in respect to price fluctuations in time. It is exclusively used, when other properties similar to the appraised property were in turnover at given market

¹⁷ <http://inwestokracja.pl/index.php/jak-wycenic-nieruchomosc/wycena-gruntow-rolnych/>

in last two years; and when the prices, the qualities influencing at such prices and terms and conditions of transactions were known for such properties.

Income-based method is employed, when the relevant income, obtained or available, from rents and other sources of income for appraised property and similar properties is known.

Mixed methodology is a methodology adopting jointly the comparative and income-based methodology. The assessor considers the properties similar for the evaluated property and incomes generated by similar properties, when a property is evaluated with this method.

Restoring method is used when property value is restored. In this methodology the overall value and value of components are evaluated separately. Appraisal is done according to the cost to be incurred for land purchased with similar properties, whereas the components are evaluated as costs to be incurred for the restoration of components to the former state or as replacement costs, with wear cost for such components deducted.

Appraisal report is an authorial report of property assessor for the purpose of property evaluation and is an official document. It can be settled only in writing and shall include a date, stamp and signature of property assessor. The appraisal is preceded with property market analysis, in the scope of obtained prices, rents, terms and conditions for undergone transactions, in particular. Having every relevant data obtained, assessor issues the appraisal report. When the appraisal report is being settled, assessors consider particular basic factors: type and location of a property, purpose, infrastructure and installations, development level.¹⁸ In the event of lacking zoning plan, the property purpose is determined according to the municipal study on conditions and directions of spatial development or according to the decision on land development conditions. Only factually exploited properties are considered in appraisal. When an agricultural land is evaluated, the key factor is land class; the higher the class is, the higher evaluation for the property may be done. Property evaluation in Poland is done seldom and is entered in the land register even more seldom, except for the evaluation for sales or compensation for damages purposes. Such situation exists despite the very good legal and technical preparation of assessors, as the standards have been more precisely formulated for agricultural property evaluation few years ago.

Land register covers the following data:

- land owner and his proportion in ownership rights,
- land possessors, when land with undefined owner is lingered,

¹⁸ R. Graca, *Information of PFSRM Standardisation Committee for proper application of Common National Appraisal Principles*, Warsaw 13 February 2013.

- perpetual users, users, managers and perpetual managers of State Treasury or local authority/government lands and their shares in proportion to the perpetual usufruct, ordinary usufruct, management and perpetual management rights,
- institutions administrating the State Treasury, municipal, province or voivodeship property and the shares in proportion to the administrative rights,
- legal entities, who are in control of the ownership rights and other proprietary rights on State Treasury lands and the shares in proportion to such rights,
- names of communal land partnerships, management members in such partnerships, persons empowered for participation in land communities and shares granted in such communities.
- leaseholders of lands and the shares in leasehold rights,

When at land classified as agricultural land a business activity is undertaken and it is other than agricultural activity, such land is levied according to property tax. Therefore, the agricultural activity was defined by legislative organs. Agricultural activity is considered as production of plants and animals, including production of seeds, nursery gardening, husbandry and reproduction, production of vegetables, production of fungi, floriculture, fruit-farming, husbandry and production of embryo material for animals/poultry/working insects, mass husbandry at farms, breeding and farming the fishes. Limitation or discontinuation of agricultural activity or limitation or discontinuation of agricultural land cultivation constitutes not a basis for exemption from agricultural taxation or allowances in this respect.¹⁹

Agricultural taxpayers

Agriculture taxpayers are individuals, legal entities and organizations, including persons without legal capacities, who are:

- owners of lands
- possessors of lands (with ownership rights or by lingering)
- users according to the perpetual usufruct on lands
- possessors of lands owned by State Treasury.²⁰

¹⁹ *Agricultural Tax Act* (unified act, dated 24 October 2013, Journal of Laws 2013, Item 1381) par. 2 item 1., Supreme Administrative Court verdict on 13 February 1992 III SA 445/92 – POP 1993, no 2 item.

²⁰ *Agricultural Tax Act* (unified act, dated 24 October 2013, Journal of Laws 2013, Item 1381) par. 3.

Leaseholders of farms leased under lease contracts and according to the provisions of farmer social insurance or provisions included in the structural pensions are levied with such taxes.²¹

Agriculture tax base constitutes:

- in the event of agricultural farmlands – number of recounted hectares,
- in the event of other lands – number of hectares stipulated in the lands and buildings register. Number of recounted hectares is recounted according to the area, type and class of agricultural land stipulated in the land and building register and according to the relevant ranking to the taxation district.^{22 23}

Agricultural farm is the area of land with total area over one standard or recounted hectare. Definition of agricultural farm is provided in the Agricultural Tax Act and differs considerably from definition of a farm in Civil Code, where agricultural farm is considered as agricultural lands including the forested lands, buildings or parts of buildings, equipment and stock, when they comprise or can comprise an organised business unit, and rights connected with activated agricultural farm. Despite the definition of agricultural farm is stipulated in the Agricultural Tax Act and is being only formal, it is adopted for agriculture tax purposes.

When tax regulation stipulates separate normative definition, such definition is applied for the purposes of accrued tax. When an agricultural farm is comprehended only in scope of the area of land and without consideration to other conditions (lands may not form an organized unit, economical bond may not exist or agricultural activity is not obligatory at such lands), it results in the agriculture tax accrued for taxpayers i.e. who own agricultural lands in various locations in the country and who do not undertake any agricultural activities on them. Often city residents are owners of “agricultural farms” with total area slightly above one hectare, which are located nearby lakes or in other attractive places of tourism.^{24 25}

Recounted hectare was introduced into the agricultural tax system in 2003 year in order to consider the discrepancies in income obtained from particular farms. This specific unit of agricultural farmland area depends on the area of farm, class and type of farmlands and taxation district into

²¹ *Agricultural Tax Act* (unified act, dated 24 October 2013, Journal of Laws 2013, Item 1381) par. 2 item 2.

²² *Civil Code* (“Journal of Laws”, dated 1964, item 93, as amended, art. 55).

²³ Supreme Administrative Court verdict on 18 May 1994 III SA 1438/93.

²⁴ A. Hanusz, *Polityka podatkowa w zakresie różnicowania obciążeń dochodów rolniczych w Polsce. Na przykładzie podatku gruntowego i rolnego*, Lubin 1996. p. 221.

²⁵ M. Podstawka, *Podatek jako instrument interwencjonizmu rolniczego*, „Wieś i Rolnictwo” no 1, 1994, p. 36.

which the farmlands were allocated. The construction of recounted hectare resembles the income-based properties of agricultural farm, despite the value of lands in agricultural farm.

When analysing the agricultural tax reform and future plans for taxing farmers, a question may arise, whether the recounting rate for agricultural tax purposes is a property, income or revenue-based duty. The difficulties in unified qualification of such tax result from its recounting method. The subject of agricultural tax are agricultural lands being a specific property, and tax base is stipulated as number of hectares representing the profitability of a farm. The purpose of recounted hectare is not sufficiently explained in the currently enforced laws and regulations, whenever it is recognized as tax base for agricultural lands or its aim is to determine the average profitability from agricultural farm. Thus, income and property cannot be mixed into one tax construction. The application of this agricultural tax base makes the soil properties within the agricultural farm the most significant factor influencing at the levied agricultural tax. Such imperfection of tax base is not characteristic only to the agricultural tax. Area of land being a key attribute of tax rate is used also when property tax (lands and buildings) and forestry tax is levied. Implementation of register of properties with stipulated property value for taxation purposes could have probably resolved the tax base concerns, when a property is being charged with a tax, including agricultural farmlands.^{26 27}

Four taxation districts are established, according to the economical and productive-climatic factors. The inclusion of the municipality, city or city quarter into the particular taxation district is enacted under the Ministry of Finance Ordinance, according to the opinion of the National Council of Agricultural Chambers and is done in settlement with the Ministry of Agriculture. Terrains of Lesser Silesia Voivodeship cover lands included into each taxation district from four possible.²⁸

²⁶ M. Podstawka, *Ocena ekonomicznych zasad wymiaru podatku rolnego w Polsce*, „Wieś i Rolnictwo” no 2, 1994, p. 48.

²⁷ *Forestry Tax Act* (unified act, dated 20 February 2013, “Journal of Laws” 2013, item 465) art. 3, *Local Taxes and Fees Act* (unified act, dated 17 May 2012, “Journal of Laws” 2010, item 613) art. 4 pos. 1.

²⁸ *Agricultural Tax Act* (unified act, dated 24 October 2013, “Journal of Laws” 2013, Item 1381) art. 5 p. 1.

Table 1. Agricultural land recounting rate²⁹

Types of agricultural lands	Arable lands				Pastures and grasslands			
	Taxation districts	I	II	III	IV	I	II	III
Classes of agricultural lands	Recounting rate							
I	1.95	1.80	1.65	1.45	1.75	1.60	1.45	1.35
II	1.80	1.65	1.50	1.35	1.45	1.35	1.25	1.10
III					1.25	1.15	1.05	0.95
III a	1.65	1.50	1.40	1.25				
III b	1.35	1.25	1.15	1.00				
IV					0.75	0.70	0.60	0.55
IV a	1.10	1.00	0.90	0.80				
IV b	0.80	0.75	0.65	0.60				
V	0.35	0.30	0.20	0.20	0.20	0.20	0.15	0.15
VI	0.20	0.15	0.10	0.05	0.15	0.15	0.10	0.05

Source: own elaboration.

Also built-up lands and lands covered with specialized agricultural production facilities are a subject of recounting into recounted hectares. Recounting of orchard lands (constituting also agricultural lands) into the recounted hectares is done in the same way as arable lands are recounted, whereas III- and IV-class orchards are recounted as III a and IV a classes, accordingly. Lands under fish-breeding ponds are recounted into recounted hectares according to the species of fishes bred, regardless the taxation districts. Fish-breeding ponds with salmon, bulltrout, hucho, lake trout and trout, with total area of 1 ha are recounted as 1 recounted hectare, whereas breeding of other species of fishes reduces the rate with 0,2 recounted hectare. Recounting rates for lands under unfished ponds are the same as for agricultural lands.³⁰

²⁹ Own evaluation, according to the *Agricultural Tax Act* (unified act, dated 24 October 2013, “Journal of Laws”2013, Item 1381) art. 4, p. 5.

³⁰ *Agricultural Tax Act* (unified act, dated 24 October 2013, Journal of Laws 2013, Item 1381) art. 4 p. 3.

Agricultural tax charges

Agricultural tax for lands with the area over 1 recounted hectare or lands over 1 hectare is determined as product of recounted hectares with 2.5 rye quintals equivalent in money. For other lands with smaller area, agricultural tax is estimated as product of area of land with 5 rye quintals equivalent in money. Division of agricultural lands into agricultural farmlands and other lands is binding from 2003 year.^{31 32}

Beginning with 2014 year, the average purchase price for rye is recounted according to the eleven quarters preceding a tax year.³³ In the former years (beginning with 1997 year), the agricultural tax base was an average rye purchase price recounted for first three quarters preceding a tax year. Such situation resulted in the considerable variation of tax base. Therefore, the changes in tax base were demanded, according to the financial reality in particular municipalities. The reviewed papers stipulate, that agricultural tax rate correlated only with rye quintal price does not secure a bond between the profitability of farms and the amount of tax accrued. Purchase prices for several basic agriculture products could solve this problem in some way. Such alteration is justified, as cultivation of corns constituted 72.6% of area of lands from total cultivated lands for crops, where only 15.5% of lands with purpose of corn cultivation were rye fields.

Table 2. Average rye purchase prices for the purposes of agricultural tax base.³⁴

Year	2007	2008	2009	2010	2011	2012	2013*
Prices in PLN	58.29	55.8	34.1	37.64	74.18	75.86	69.28

* Price recounted from 11 quarters preceding the tax year.

Source: own elaboration.

³¹ Agricultural Tax Act (unified act, dated 24 October 2013, Journal of Laws 2013, Item 1381) art. 6 p. 1.

³² A. Hanusz, *op. cit.*, p. 261.

³³ <http://stat.gov.pl/obszary-tematyczne/rolnictwo-lesnictwo/rolnictwo/uzytkowanie-gruntow-i-powierzchnia-zasiewow-w-2013>, p. 45,46.

³⁴ President of the Supreme Statistical Office Statement for the rye purchase prices, dated 17 October 2007 ("Official Gazette of Polish Government" no. 77 item 717), dated 19 October 2009 ("Official Gazette of Polish Government" no. 68 item 886), dated 19 October 2010, ("Official Gazette of Polish Government" no. 76 item 960), dated 19 October 2011, ("Official Gazette of Polish Government" no. 95 item 969), dated 19 October 2012, ("Official Gazette of Polish Government", date 2012, item 787), dated 18 October 2010, ("Official Gazette of Polish Government", date 2013, item 814).

Municipality Council is empowered to reduce the average rye purchase prices indicated in the Announcement of the President of Supreme Statistical Office. Reduction in price, enacted as ordinance, can be formed as quantitative reduction in purchase price, i.e. from 69.28 PLN to 60 PLN per rye quintal. Such Ordinance is enforced after 14 days from the date of Announcement in the Voivodeship Official Gazette and is binding for one budget year. Reduction in price, with undefined period of reduction, can be given in percentages, i.e. as 25% of rye quintal price. Percentage reduction of rye quintal price is binding until the superseding Ordinance is enacted, therefore it can be enforced for a period longer than one budget year. When the reduction of rye quintal purchase price is not enacted by the Municipality Council, the agricultural tax base at the territory of given municipality should be the price stipulated in the Announcement of the President of Supreme Statistical Office.³⁵

In Polish legal system, a tax duty is usually brought into force at the day when the event enforcing such duty occurred. In agricultural tax system a tax duty is enforced at first day of the month following the month in which the event justifying such tax duty occurred. It similarly expires at last day in the month in which the event justifying charging with such duty dissolved.^{36 37}

Allowances and exemptions from agricultural tax are stipulated in the limited catalogue incorporated in the Agricultural Tax Act. Its construction has undergone minor changes from the date such Act was enforced. Exemptions result from the i.e. class of land, such as agricultural land class V, VI and VI z, also are given for forests and shrubs at agricultural lands, soils, pastures and grasslands. Exemptions are connected with activities undertaken on such lands, expansion, merging the farm, also with pension age and disabilities. Allowances are given for lands intended for public purposes, i.e. lands under national boarder roads, lands with water reservoirs intended for public water supplies, lands within the fire prevention zone. Also higher education institutions, research institutes and users of family allotment gardens (a case of current controversy) are exempted from agricultural tax.^{38 39}

³⁵ *Municipal Government Act* (unified act, "Journal of Laws" dated 2013, item 594 as amended) art. 18 p. 2.8.

³⁶ *Agricultural Tax Act* (unified act, dated 24 October 2013, Journal of Laws 2013, Item 1381) art. 6 p. 3.

³⁷ Supreme Administrative Court verdict on 10 February 1995 SA/Rz 226/94.

³⁸ R. Lipniewicz, *Prawo podatkowe w Polsce i w Unii Europejskiej*, Państwowa Wyższa Szkoła Zawodowa im. Witelona in Legnica Publishing Series, Legnica 2006, p. 14.

³⁹ *Agricultural Tax Act*, Prof. Dr hab. Leonard Etel Commentary; Edition III 2009 C.H. Beck, p. 24.

In case of exemption of farms from income tax, the principle of common taxation is considerably limited. It is very probable, that income-based tax would have been higher. Regardless the construction and adopted allowances, the modification in tax system may result in general controversies. Most likely, it will change the agrarian structure in agriculture and will alter considerably the number and total area of farms. In 2009, the average area of agricultural farm in Poland was 6.4 ha, where in Germany it was 53.7 ha, in Denmark 56.1 ha and in France 52.2 ha. Each state of European Union had the acreage surpassing the average agricultural farm several times, excluding Greece. This factor undergone some changes during years, and in 2014 the average area of land was increased to 10.48 ha. The progress did not touch every region of Poland. Agricultural farms in Subcarpatian and Swietokrzyskie Voivodeship have small average area of land, still. European Union programmes encourage young farmers to increases in total area of a farms, whenever such area is smaller comparing to average area of Polish farm.⁴⁰

Conclusions

Binding laws and regulations are outdated, do not stimulate development in agriculture and do not encourage farmers to increases of total area of farms. Small farms have lesser negotiation powers in terms of deliveries, sales of agriculture products, production limits. Comparing to other European Union countries, smaller farms and reluctance to farming unified into bigger production groups hampers the farmers on the way to the satisfactory profitability level from agriculture.

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⁴⁰ R. I. Dziemianowicz, op. cit., p. 184; R. Michałek, K. Grotkiewicz, A. Peszek, *Inżynieria rolnicza. Wydajność ziemi i pracy w wybranych krajach Unii Europejskiej*, Faculty of Agriculture Engineering and Informatics, Kraków 2009, p. 201.

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- Ustawa o podatkach i opłatach lokalnych (tekst jednolity z dnia 17 maja 2012r. Dz. U. z 2010 poz. 613)
- Ustawa o podatku leśnym (tekst jednolity z dnia 20 lutego 2013 Dz. U. z 2013 r. poz. 465)
- Ustawa o podatku rolnym (tekst jednolity z dnia 24 października 2013r. Dz. U. z 2013r. poz. 1381)
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