



ISSN 1392–6195 (print)
ISSN 2029–2058 (online)
JURISPRUDENCIJA
JURISPRUDENCE
2009, 4(118), p. 285–298

BENEFITS AND COSTS OF THE STATUTORY FRAMEWORK FOR RESIDENTIAL PROPERTY TAXATION: FROM TAX THEORY TO INEFFECTIVE ADMINISTRATIVE PRACTICES

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Received 1 November, 2009; accepted 29 December, 2009

***Annotation.** Taxation of residential property is difficult to be implemented in many jurisdictions and in this respect Lithuania is not an exception. Many taxpayers do not comprehend why property should be levied by the government. Indeed, any owner of real estate would usually resist to any attempts to increase this tax burden. However, even when the threshold is once overstepped and a new unpopular statutory framework is introduced, the government still faces new dilemmas regarding the administration of this tax. Sometimes weak tax administration but not the tax itself undermines the credibility of the public.*

Commercial premises as well as land have been continuously levied in the Republic of Lithuania since 1990. Thus, the taxes paid by enterprises and the land tax were not a big issue of public debate in Lithuania. The burden of this tax was not very significant in the light of all taxes paid by enterprises or land owners. The most problematic issue remains the taxation of residential property.

Residential property has been basically exempted from the tax base in Lithuania until now. However, after the Parliament's election and the change of the political leadership in 2008, the issue of the taxation of residential property is reconsidered. A preliminary date (2010 or 2011) for the reinforcement of the Law on Property Tax is set forth. The new Go-

vernment formed of the conservative wing and newly established political forces have faced new economic realities: a global economic downturn accompanied with a sharp decline in the Lithuanian economy (e.g. a decline of approximately 13 per cent in the first quarter of 2009¹) since the last quarter of 2008. This induced the Government to engage in a broad discussion on the taxation of residential property again. However, the increasing level of unemployment in the EU (the rate of unemployment in Lithuania was among the highest in the EU in 2009) as well as the worsening social status of many inhabitants increases political resistance to the taxation of residential property. In addition, it must be borne in mind that during the recent years a large number of Lithuanian inhabitants have taken mortgages to acquire residential property, which has eventually doubled or sometimes even tripled the price of residential real estate by the end of 2008 in comparison with 2003. If the new taxation of residential property is introduced, for a large number of inhabitants the housing expenditure will increase (in addition to the current problems in the employment market, increased interest rates paid for mortgages², etc.).

In the light of these political developments, the author strives to reexamine the theory on the taxation of residential property as well as discusses some attempts to modernize the Lithuanian statutory framework. Some reflections on good tax administrative practices are presented at the end of this article.

Keywords: property tax, theory of taxation, residential property tax, local property taxation, appraisal for taxation purposes, tax reform.

Introduction

The earth, therefore, and all things therein, are the general property of all mankind ... from the immediate gift of the Creator.

(William Blackstone, Commentaries on the Laws of England)

The classical liberal doctrine of political economy has considered taxes as the only source of the state's income to ensure law and order in the country. Taxes might be employed as a *quasi* fee for the security to be acquired from public authorities³. Following this approach, fiscal norms should dominate in the tax laws in order to sustain the financial stability of the state. However, the contemporary theory of taxation is concerned not only with tax collection, but to also with the achievement of more social solidarity among taxpayers.

1 See the statistical data of the Department of Statistics to the Government of the Republic of Lithuania [interactive] [accessed 15-10-2009]. <<http://www.stat.gov.lt>>.

2 The rates of VILIBOR [interactive] [accessed 15-10-2009]. <<http://www.lb.lt>>.

3 Tipke, K.; Lang, J. *Steuerrecht 17, völlig überarbeitete Aufl.* (Köln, 2002) 2.

Historically, the theoretical justification of property taxes in the light of general tax theory has been scrutinized by prominent philosophers of classical liberalism, such as Adam Smith (1723-1790), David Ricardo (1772-1823) and John Stuart Mill⁴ (1806-1873) some centuries ago. For instance, Smith has proposed four maxims aimed to achieve more compliance among taxpayers, thus:

- (i) the subject of every state ought to contribute towards the support of the government, as nearly as possible in property to their respective abilities,
- (ii) the tax which each individual is bound to pay ought to be certain and not arbitrary;
- (iii) every tax ought to be levied at the time, or in the manner, in which it is most likely to be convenient for the contributor to pay it;
- (iv) every tax ought to be so contrived as both to take out and to keep out of the pockets of the people as little as possible, over and above what brings into the public treasury of the State”⁵.

In the light of the principles developed by Smith, Ricardo has argued that the tax on land value would be the most acceptable solution as it would be paid by the landlord, and, therefore, the land price would not increase ⁶.

Probably the most outstanding proponent of land value tax was Henry George who in his study *Progress and Poverty* has substantiated that land should be taxed according to the value estimated after determining the “highest and best use”⁷. Though in the present-day circumstances not all ideas of George would be fully acceptable, land tax is nowadays comprehended not only as a source of local government’s revenue, but also as a means to achieve non-fiscal purposes (e.g. sustainable development of regions, effective utilization of real estate, etc.).

Many classical economists’ arguments against the taxation of premises may still be relevant. For example, one may argue that the taxation of residential property may actually mean a double taxation of the same income, i.e. income tax and residential property tax levied on the same income. Furthermore, real estate items of similar quality do not necessarily generate the same income. In this respect, one may argue that property tax is not really appropriate with regard to unequal taxpayers’ financial abilities. Therefore, in many jurisdictions the tax base is the value of real estate (*ad valorem*).

However, one may also argue that property tax is often calculated not only according to the actual gains, but also according to the theoretical assumption that similar property should generate similar income if it is used in the most efficient way. In the author’s view, these arguments do not deny property taxation as such but suggest that

4 Mill, J. S. *Principals of Political Economy*. London: Longmans Green, 1900. [interactive] [accessed 15-10-2009]. <<http://www.econlib.org/library/Mill/mlP.html>>.

5 Smith, A. *An Inquiry into the Nature and Causes of the Wealth of Nations*. London: Metheuen and Co, Ltd., 1904.

6 Ricardo, D. *On the Principles of Political Economy and Taxation*. London: John Murray, 1817.

7 See: George, H. *Progress and Poverty*. New York: Robert Schalkenbach Foundation, 1879, p. 437–438.

taxation must be in line with the major principles outlined by Smith some centuries ago, in particular, that the government should contribute to the equality of taxation as much as possible.

Indeed, the modern comprehension of property tax is slightly different from the views which dominated centuries ago. Since the twentieth century, income and not property has been considered as the main indicator allowing to achieve equality among the taxpayers. Furthermore, the application of property tax offers a good chance to reconsider the processes of privatization, decentralization and market development, which is especially relevant for the countries in transition.

In fact, property tax is nowadays considered as a major source of municipal and not governmental tax revenue. Generally, governments should strive to achieve more equality among taxpayers; a taxpayer should realize and agree being taxed equally and contributing to the government's revenue by paying the property tax. In this light, many governments establish not only fiscal norms, but also norms regarding the actual capacities to pay the tax. The respective dualism exists in property taxation as well.

Thus, the object of this analysis is the property tax and its theoretical justification. The author strives to reexamine the theoretical arguments "for" and "against" residential property taxation in the light of current economic developments in Lithuania. The methodology of legal science was applied in this paper: *inter alia* system analysis, modeling, meta-analysis, comparative analysis, etc.. As mentioned before, the current legal environment of the Republic of Lithuania has been taken as a context to reconsider the benefits and costs of property taxation. Much attention has been paid to the economic analysis of law as well as to the economic justification of legal norms in order to understand the public discontent with this tax⁸. The existing statutory framework of property taxation in Lithuania was established after a careful consideration of the most recent developments in a number of jurisdictions with an intention to enhance economic development, fair competition, to ensure the sufficient revenue to the fiscal funds of local municipalities⁹.

8 For current research into the public response see e.g.: Haveman, M.; Terri, A. *Sexton Property Tax Assessment Limits. Lessons from Thirty Years of Experience Policy Focus Report*. Cambridge MA, USA: Lincoln Institute of Land Policy, 2008, p. 3.

9 For more discussion on these issues in the light of Eastern and Central European countries see: Almy, R. Modernising Property taxes: the case study of Lithuania. *Fair & Equitable: Journal of the International Association of Assessing Officers*. 2003, 1(12): 7–11; Bird, M.; Slack, E. Land and property taxation around the world: a review. *Journal of property tax assessment and administration: an international journal*. 2002, 7(3); Malme, J. Mass valuation for land taxation in transition economies, land lines. *Newsletter of the Lincoln Institute of Land Policy*. 2004, 16(2): 5; Šulija, V. Commentary. In: Bahl, R.; Martinez, J. Youngman, V.; Youngman, J. (eds). *Making the Property Tax Work: Experiences in Developing and Transitional Countries*. Cambridge MA: Lincoln Institute of Land Policy 2008; Sabaliauskas, K.; Aleksienė, A. Progress toward value-based taxation of real property in Lithuania. *Land Lines Newsletter of the Lincoln Institute of Land Policy*. 2002, 14(4); Šulija, V.; Šulija, G. Reform of Property Tax and Problems of Real Estate Appraisal for Taxation Purposes in Transitional Economies of Central and Eastern Europe. Lincoln Institute of Land Policy Working Paper, 2005; Tambet, T. Land Taxation reform in Estonia. In: Bahl, R.; Martinez, J. Youngman, V.; Youngman, J. (eds). *Making the Property Tax Work: Experiences in Developing and Transitional Countries*. Cambridge MA: Lincoln Institute of Land Policy, 2008; Malme, J. Taxes on land and buildings: case studies of transitional economies. In: *Land Lines Newsletter of the Lincoln Institute of Land Policy*.

The Law on Property Tax based on these ideas came into force in 2006¹⁰. Indeed, the relatively new Law on Property Tax stipulated that individuals were subject to property taxation; however, residential, resource, ecclesiastical property was exempted of the tax base provided this property was not used for economic activity. One of the basic aims of the reexamined property taxation, among other things, was to inhibit entities from registering property on behalf of individuals and, thus, avoiding taxation of property. Still, in general, it seems that tax exemptions are too generous as established in the new Law on Property Tax; the government disregarded the non-fiscal effects of property taxation. Although the worldwide experience is not unanimous, further development of the property tax system is claimed to be necessary in order to encourage individuals to refuse the real estate property that they do not really need.

The first section of the present article deals with the tax theory, in particular, with the major theories underlying property taxation. A more practical approach is taken in the second section by considering the economic and social implications of the tax. In this light, the taxpayer who is actually burdened by the property tax is separated from the legal taxpayer. Possible ways of structuring the statutory framework as well as administrative practices are discussed in the last section.

1. Theories Underlying Property Tax

Nowadays it is commonplace that governments levy real estate. However, the significance of this tax varies in different jurisdictions. There are different policies that underlie the application of this tax. Some countries strive to acquire as much revenue as possible from this tax; however, some other countries intend to improve the efficiency of the use of land by taxing the improvements or by inhibiting the speculation of real estate and, therefore, decrease the prices of real estate in the market.

There is no unanimous concept regarding the substantiation of property taxation; nonetheless, two theories predominate. Property tax might be considered as: (i) a *quasi* payment for public services rendered by public bodies (sometimes considered as the “benefit theory”) or (ii) a capital tax that is paid by persons who own more property in comparison to others (“the theory of capacity to pay”)¹¹. In practice, there is, however, no property tax that is based solely on one theoretical assumption. Many governments consider the pragmatic issues as well. Contrary to the income of taxpayers, real estate is easy to discover and to levy. In many cases a taxpayer finds it difficult to avoid property tax obligations. In case of a default of payment, the respective taxes might be easily recovered from the property itself, similarly to other civil obligations. These practical con-

1999, 11(3): 4; Malme, J.; Robinson, D. Introducing value based property taxation in Poland. In: *Land Lines Newsletter of the Lincoln Institute of Land Policy*. 1999, 11(2): 6.

10 See: Official Gazette, 2005, No. 76-2741.

11 McCluskey, W.; Williams, B. *Introduction: a comparative evaluation. Property Tax: an International Comparative Review*. Ashgate, 1999, p. 6; Tipke, K.; Lang, J. *Steuerrecht 17. völlig überarbeitete Auflage* Köln, 2002, p. 544–545; Zodrow, G. R. Who pays the property Tax? And what does capitalization tell us about who pays? In: *Land Lines Newsletter of the Lincoln Institute of Land Policy*. 2006, 18(2).

siderations, rather than any theoretical suggestions about the merits and shortcomings in respect of the effective use of property, are sometimes found sufficient to justify the taxation of real estate.

1.1. Property Tax as a Benefit Tax

As Oates once explained, the property tax is a good local tax, though it is far from perfect¹². The “benefit theory” can be explained by arguing that property tax is a charge for governmental or municipal services received. Theoretically, property tax should contribute to the efficient fiscal decisions and, thereby, promote efficient utilization of property. It is assumed that a taxpayer may move to the municipality where the public services financed by the property tax are rendered in a more efficient way. If some persons acquire a direct benefit from public authorities, it is reasonable to argue that these persons should pay for the services they receive¹³. On the contrary, if a person acquires no benefits of property tax, the tax should be abolished in a long run.

A problem concerning the ways to establish in detail what particular benefits go to a particular taxpayer remains. Ideally, the tax should not be hidden, and the tax payers should know where their money flows. In reality, it is difficult to measure public services that are received by each taxpayer against their actual tax contributions. Indeed, the value of real estate is often directly linked with public and private investments in some locations. In other words, investments in local municipalities may transform into the value of real estate. The owner of real estate may, however, do nothing to contribute to the growing value of his real estate and, thereby, profit out of the public services by doing nothing. In this respect, property tax balances out the “undeserved increment of property value”. It is claimed that the introduction of residential property tax would encourage local taxpayers to more actively participate in the activity of local community and, thereby, enhance the accountability of local authorities to the local voters.

Philosophically speaking, the property tax can be also explained in the context of a *quasi* public contract. It might be compared to the insurance premiums aimed to cover the expenses pertaining to the police services, protection of property, environmental protection measures, etc. By the way of example, establishment of playgrounds, schools, maintenance of educational services in a particular location could be easily financed from the revenue received from property tax. It would be probably reasonable to argue that only few owners would agree to transfer their property and move to other locations because of property tax. The costs of moving to another location would be substantially higher than the property tax itself. An argument “against” residential property taxation might be put forward: local inhabitants sometimes do not really need services rendered by public authorities. Those might argue that public services should be directly financed

12 Oates, E. W. Local property taxation: an assessment. *Land Lines Newsletter of the Lincoln Institute of Land Policy*. 1999, 11(3): 1.

13 McCluskey, W.; Williams, B. Introduction: a Comparative Evaluation. McCluskey, W. (ed.). *Property Tax: an International Comparative Review*. Ashgate, 1999, p. 6; Harriss, C. L. Property Taxation: What’s good and what’s bad. How to use property taxes more rationally and effectively. *Challenge: the Magazine of Economic Affairs*. 1973, September – October.

by persons who need the services. A good example to illustrate the situation could be the fact that there is a common practice for the building and maintenance of roads to be mostly financed from the revenue received from drivers, but not pedestrians. On the other hand, it is difficult to identify and classify all services rendered by local authorities.

Furthermore, public services that are ordinarily financed from income, corporate tax, VAT, etc. do not directly contribute to the welfare of a particular group of inhabitants who pay these taxes. In many cases reported, benefits received from property taxation are not directly observable. The absence of the interrelation between direct benefits and contributions towards property tax, among other things, might be explained in the light of the following assumptions: (a) local municipalities do not necessarily finance the services that increase the value of real estate in a particular location; (b) local taxpayers do not ordinarily decide on all provisions of property taxation and other tax laws. Finally, local authorities do sometimes disregard the expectations of taxpayers and consider social rationales rather than the expectations of rich owners in a particular community who contribute greatly to the collection of local taxes. All in all, these arguments should not be overestimated. Though a taxpayer does not acquire a direct benefit from property tax immediately, he or she is likely to consider the locations where local authorities do act in the interests of the inhabitants.

Furthermore, there exist some doubts whether an owner of a more valuable property who needs more public services should be subject to higher property taxes. In other words, it is questionable whether a rich taxpayer needs more infrastructure, local libraries, police services, other public inspections, etc. On the contrary, it seems that rich owners are more likely to rely on private resources rather than public services (e.g. their children go to private schools, buy private books, they use fewer facilities of public libraries). In this light, one may even suggest that this tax might be detrimental for some people who may be forced to transfer their property because of residential property tax. Finally, one may raise a question if this tax is compatible with a person's right to have a dwelling place, etc.

1.2. Property Tax as a Capital Tax

Generally speaking, property tax is one of the oldest taxes. Long time ago, people have noticed that property should certify about an individuals' capacity to pay as well as his or her social status. In this respect, property tax may be considered as the tax on the capital in use, which may be compared to excise taxes on specific property¹⁴.

The academicians agree that property tax should equally affect actual taxpayer's capacity to pay. For instance, the German Federal Constitutional Court has concluded that property tax mostly equally concerns a taxpayer in respect of their capacities to pay this tax¹⁵. Furthermore, it is often contended that the introduction of property tax makes the government's revenue more proportional to the income of inhabitants.

14 Oates, E. W. Local property taxation: an assessment. *Land Lines Newsletter of the Lincoln Institute of Land Policy*. 1999, 11(3): 1.

15 Bundesverfassungsgericht. Beschluss von 6. Dezember 1983 (BvR 1275/79). *Zweiwohnungssteuer // Entscheidungen des Bundesverfassungsgerichts (Tübingen 1984) 353.*

However, “not all old taxes are good taxes”, and the value of real estate is not necessarily proportional to the actual capacities of a person who pays annually recurring property taxes. The property of the same value may generate different income, and one may notice a distortion in respect of a persons’ actual capacities to pay. As far as residential property is concerned, one of the major points of criticism is that the residential property tax does not adequately correspond to the paying capacities of socially vulnerable persons. By the way of example, a widow may inherit a valuable property after her spouse passes away; however, she may have no income to pay the property tax. This would mean that some persons would be actually forced to transfer their property, though they have used it for a long time and it is emotionally difficult to do this. With this regard, it could be considered whether certain tax exemptions or relieves should be applicable for certain categories of taxpayers. Many jurisdictions apply certain residential tax exemptions or at least relieves in respect of retired (or elder) owners (France, Estonia), disabled persons (England and Wales, the Czech Republic, Poland, Estonia), some deserved members of the country or municipality (Romania, etc.).

In summary, both theories outlined reflect the nature of the residential property tax. On the one hand, revenue received from the residential property tax may finance public services rendered to the local inhabitants, though this value does not necessarily reaches particular taxpayers directly. On the other hand, property tax should more or less correspond to the actual capacities of a taxpayer to pay the tax and, therefore, this tax should have a relatively equal effect on taxpayers. If we consider property tax as a benefit tax, the tax should have no effect on the redistribution of income. If property tax is considered as a capital tax, the economic implications on the taxpayers are not very clear. It is possible that households may reduce “the consumption of real estate” in a long run owing to the property tax. Furthermore, the use of property tax with the purposes of revenue collection may sometimes contribute to the under-provision of local services.

Finally, though it is desired, there is no firm requirement for the taxation to directly correspond to one or another theory. The implementation of property taxes may be based on general fiscal needs of the government, and it should be considered legitimate as long as the tax corresponds to the general principles of taxation. Indeed, it is difficult to find sound criteria that would guarantee a totally equal effect on all taxpayers. In practice, more equality among taxpayers might be achieved by different means, e.g. adjusting tax base, tax rates, introducing or abolishing tax exemptions and relieves, etc.

2. Economic and Social Implications of the Taxation of Residential Property

The analysis of tax burden permits to understand what economic and legal interrelationship exists between a formal taxpayer and an actual taxpayer. In fact, the burden of many taxes may be actually shifted to the final customer and, therefore, the tax may not really have a legal effect on the taxpayer. For instance, in the case of indirect taxation,

higher taxes are actually shifted to other persons who pay them together with goods and services they acquire. If the governments or local authorities know exactly where the revenue they collect comes from, it would be easier to identify the services to be financed by this tax. Theoretically, this tax should be levied more heavily on a person who receives more benefits from it. This is really important for property tax, as one often assumes that the tax is a *quasi* payment for the services rendered by local authorities. The analysis of the actual effect on taxpayers permits to understand what effect – either progressive or regressive – a tax has in reality. For instance, a regressive tax effect means that taxpayers who have less income are subject to relatively higher property taxes.

The economic effect of property taxation is not very easy identifiable. When a property tax is levied on entities, the tax shall be formally paid by the owner or the user of the property. Furthermore, even if we assume that local services must be financed by property tax, the respective public services are rarely rendered only within a certain geographical territory. As a consequence, property tax would be actually “exported”, whereby it is actually paid by customers (or the owners of property) who do not reside in a particular location.

The residential property tax should not be shifted to other persons provided the owner of the property (and therefore a formal taxpayer) uses this property. In a traditional view, when property is rented, the tax is included into rentals. It is sometimes argued that property tax must be shared by renters, consumers, and labour¹⁶. With respect to residential property, property tax might be considered as a consumption tax. In this light, residential property tax has been traditionally regarded as a regressive tax, since poorer households spent relatively higher ratios of their income to sustain the residential property¹⁷; however, the implications are not completely clear¹⁸. The tax might be even detrimental on some elderly people, widows, and divorced persons, if they cannot afford to pay it. On the other hand, the detrimental effect of this tax would be reduced, if one considered the tax from a long-term perspective. By the way of example, a young employee may acquire relatively expensive residential property by anticipating that his income is to increase annually.

In order to achieve more equality among taxpayers, it is often argued that the tax is to be appraised in accordance with the market value of certain property. Indeed, the more valuable is the property a person acquires, the more financially stronger he should be. The regressive effect of the property tax might be mitigated, if rich people who own valuable property paid progressive property taxes.

In summary, the effect of the residential property tax often depends on the perspective the tax is considered from. If one considers that property tax is levied accordingly

16 Sennoga, E. B.; Sjoquist, D. L.; Wallace, S. Incidence and Economic Impacts of Property Taxes in Developing and Transitional countries. In: Bahl, R.; Martinez, J. Youngman, V.; Youngman, J. (eds.). *Making the Property Tax Work: Experiences in Developing and Transitional Countries*. Cambridge MA: Lincoln Institute of Land Policy, 2008, p. 64.

17 See e.g., Gierz, J. F. The property tax bound. *National Tax Journal*. 2006, 59: 701.

18 Kenyon, A. D. *The Property Tax – School Funding Dilemma. Policy Focus Report*. Cambridge MA, USA: Lincoln Institute of Land Policy, 2007, p. 36.

to the property a person owns, the tax should be neither progressive, nor regressive, but proportional to the person's capacities to pay it. However, sometimes it is impossible to identify who is actually the end-payer of property tax, in particular, whether it is the owner or the lessee¹⁹. The regressive effect of the tax might be also mitigated if well-balanced tax exemptions for the most socially vulnerable persons or in respect of some residential property of little value were implemented.

3. Statutory Framework and Administrative Practices of the Taxation of Residential Property

The introduction of new statutes in the country must be viewed in the light of pragmatic arguments as well; in particular, the most feasible alternatives to the taxation of residential property must be considered. New taxes may not be a justification *per se*. Indeed, taxes are rarely neutral due to their actual effect. They do sometimes distort free market and cause many other negative social and economic implications. Fiscal merits of the residential property tax are not so important. The ratio of property taxes in the national revenue is nowadays not very high in comparison with other taxes. However, many countries consider that this tax pays off the administration expenses.

As shown in the analysis, residential property tax mostly has an equal effect on taxpayers. The relatively wide tax base of property tax permits to avoid discrimination of some taxpayers. Another important factor to be considered is the stability of municipal tax revenue. The rates of the collection of property taxes are steadily high. One of the reasons is that property tax may not be hid; real property is listed in the state register and, therefore, many taxpayers have no other choice than to pay their tax bills. Since the residential property tax is introduced, the value of real estate tends to drop. If this happens, one may suggest that property tax has successfully tackled the speculation of property. Many residents in the transitional economies acquired real estate in order to get indemnified against the inflation and, thereby, distorted the market of residential property (artificially boosted the demand in real estate). As a consequence, the price of residential property has been rocketing up in the last years in the Eastern and Central Europe, which precluded other persons from acquiring really necessary real estate. In short, property tax should preclude the speculation of real estate and enable people to acquire real estate which is actually necessary.

Theoretically speaking, the exemption of residential property from the property tax base is a disputable matter, since a differential treatment of residential property and other property may distort the market. In particular, this discriminates entities as residents may illegally use property for commercial purposes as well. An entity may seek to register the property on behalf of a resident in order to avoid property tax to be levied²⁰.

19 Woolery, A. *Property Tax and Practice*. Cambridge USA: Lincoln Institute of Land Policy, 1989, p. 40.

20 Compare: Paugam, A. *Ad valorem Property Taxation and Transitional Economies*. ECSIN Working Paper No. 9, Europe and Central Asia Region June 28, 1999.

Finally, if property tax was levied only on entities, the tax would be shifted to the final customers who are not necessarily based in the same location as these entities. Many taxpayers are discouraged by this tax, if they do not see the links between the value of real estate and the tax to be calculated. On the other hand, the scepticism in respect of property tax might be mitigated, if local authorities paid more attention to the actual needs of local inhabitants who transferred these taxes and contributed to the welfare of the local community.

In general, the advantages of the anticipated taxation of residential property seem to be overweighted. In this light, it is recommended to implement residential property tax even though the revenue from this tax may be insignificant in the context of the gross tax revenue of national governments. In practice, they are quite important as an autonomous source of municipal tax revenue. Finally, it must be noted that some advantages of the tax may simultaneously be considered as shortcomings. The simplicity and transparency of the tax may be both an advantage and a shortcoming of the tax as negative features of this tax are more evident if tax authorities fail to administer it properly.

What can Lithuania learn from the worldwide experience on property taxation?²¹ Probably the most important issue is to overcome the political resistance and consider the arguments for and against the taxation of residential property in the light of economic and fiscal goals but not just to seek to achieve short-time political popularity. It is advocated to levy residential property taxation by granting more powers to the local authorities, in particular, by deciding on the tax exemption limits (depending on the value of residential property in a particular location) or to establish the non-taxable normative (e.g. in square meters) for each owner of residential property. The respective limits might be balanced considering the number of children and other socially vulnerable persons who use this property. Much attention should be paid to the implementation of residential property tax as well. Similar to the property tax paid by legal entities, the tax must be based on the value of residential property. However, the value of the respective property must be determined constantly so that a taxpayer feels that he is taxed equally in a non-discriminative manner. Among other things, much attention should be paid to fraud prevention so that a taxpayer is not be able to artificially decrease the value of residential property. Finally, local authorities should contribute more to the promotion of their services and show that they render services that are really necessary for the local community.

Conclusions

Residential property tax is an effective means to achieve both fiscal and non-fiscal goals. What regards fiscal goals, tax revenue collected in the form of residential property tax might broaden the scope of services rendered by local authorities. Furthermore, local

21 Compare also: Šulija, V., *supra* note 9.

authorities would be able to invest more into the local infrastructure, which, at the same time, increases the value of property in a particular location. What regards non-fiscal goals, the taxation of residential property may successfully stimulate inflation and enable people to acquire residential property if previously they were unable to do this because of artificially boosted prices. Furthermore, it is anticipated that property would be eventually used by persons who really need it, which stipulates the most efficient utilization of property. For these reasons, it is recommended to implement the residential property tax in Lithuania.

However, the fiscal goals of property tax should not be predominant. The Government should seek to use the revenue received from the property tax for the benefit of local people. It is anticipated that if the purpose of the Government was just to burden the taxpayers, housing consumption would fall in a long-time perspective. In order to overcome the regressive effect of property tax, some tax relieves for socially vulnerable people might be applied.

Finally, successful administration of this tax is no less important. Local authorities should also consider the real economic effect of this tax; therefore, political resistance against this tax would be mitigated.

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GYVENTOJŲ NEKILNOJAMOJO TURTO APMOKESTINIMO ĮSTATYMŲ BAZĖS PRANAŠUMAI IR IŠLAIDOS: NUO MOKESČIŲ TEORIJS IKI NEEFEKTYVIOS ADMINISTRAVIMO PRAKTIKOS

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Santrauka. Įvesti mokesį, kuriuo bus apmokestinamas gyventojams priklausantis nekilnojamasis turtas, yra problemiška daugelyje valstybių. Daugelis mokesčių mokėtojų nesupranta, kam reikalingas nekilnojamąjį turtą apmokestinimas, jie priešinasi bet kokiems ketinimams apmokestinti nekilnojamąjį turtą ir taip padidinti mokesčių naštą. Net jeigu reikalingi teisės aktai yra priimti, teisės aktus įgyvendinančios institucijos susiduria su problemomis, susijusiomis su efektyviu šio mokesčio administravimu. Kartais ne pats mokeskis,

bet netinkamas jo administravimas pakerta pasitikėjimą nekilnojamojo turto mokesčiu. Todėl prieš reglamentuojant gyventojams priklausančio nekilnojamojo turto apmokestinimo klausimus, labai svarbu įvertinti jo teorinį pagrįstumą ir tuo įrodyti mokesčių mokėtojams, kad atitinkamas apmokestinimas vykdomas ne atskirų valstybės institucijų, o pačios visuomenės interesais. Gyventojams priklausantis nekilnojamasis turtas šiuo metu yra iš esmės neapmokestinamas nekilnojamojo turto mokesčiu, išskyrus jeigu jis naudojamas komercinei veiklai. Tačiau atitinkami teisės aktų pakeitimai yra planuojami, o realaus apmokestinimo galima tikėtis jau 2010–2011.

Šiame straipsnyje yra pagrindžiama, kad lėšos, gautos iš gyventojams priklausančio nekilnojamojo turto apmokestinimo, gali būti panaudojamos vietinei infrastruktūrai gerinti ir vietos bendruomenės gerovei kurti. Investicijos, padarytos konkrečioje gyvenvietėje, turėtų būti naudingos ir vietos gyventojams, kadangi infrastruktūros pagerinimas turėtų galiausiai pakelti ir nekilnojamojo turto vertę konkrečioje vietovėje. Pažymėtina ir tai, kad įstatymų leidėjas turi siekti, kad visi mokesčių mokėtojai būtų apmokestinami vienodai, atsižvelgiant į jų faktines galimybes sumokėti mokesť. Jeigu gyventojams priklausantis nekilnojamasis turtas nėra apmokestinamas, tai sudaro prielaidas piktnaudžiavimo atvejams, kai juridiniai asmenys gali panaudoti fizinių asmenų nekilnojamąjį turtą ir taip išvengti atitinkamo mokesčio. Be to, pats nekilnojamasis turtas – nors ir ne visais atvejais – parodo realias mokesčio mokėtojo finansines galimybes ir todėl šiuo mokesčiu yra apmokestinami tie asmenys, kurie gali susimokėti šį mokesť. Aktuali problema išlieka kai kurių socialiai jautrių visuomenės sluoksnių (pensininkų, invalidų ir t. t.) apmokestinimas, kadangi jie gali ilgą laiką naudoti tam tikrą turtą, tačiau, pasikeitus aplinkybėms, jau nebegali už jį susimokėti. Todėl įstatymų leidėjas turėtų taikyti pamatuotas mokesčio išimtis šioms asmenų kategorijoms.

Reikšminiai žodžiai: apmokestinimo teorija, gyventojų nekilnojamojo turto mokesčiai, vietiniai mokesčiai, nekilnojamojo turto vertinimas apmokestinimo tikslais, mokesčių reforma.

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