

Wiesława Olkowska *

HARMONIZATION OF THE TAX SYSTEM IN POLAND IN ACCORDANCE WITH EU STANDARDS

Abstract. This paper attempts to present the way in which the Polish tax system functions, first and foremost with regard to the VAT in Poland in relation to the VAT in European Union member states.

An outline of the historical need to introduce the VAT in 1993 is presented which arose due to the necessity of harmonizing the Polish law with the tax system of the European Union member states.

New system solutions have been pointed out that are effective since May 1, 2004 and apply to trade exchange that takes place on the internal EU market. Tax rates, entitative and legal exemptions resulting from the Act on VAT of March 11, 2004 are presented in the context of value added tax rates effective in chosen European Union countries.

The research thread concentrates on the analysis of numerical data depicting VAT revenues and arrears in the light of other national taxes in Poland for the period between 2003 and 2005. Source materials for the period between 2003 and 2005 from the Tax System Department of the Ministry of Finance have been used for this assessment. These data made it possible to establish index values of taxpayer VAT indebtedness as compared to the Polish taxpayer indebtedness level, first and foremost in relation to direct income taxes (PIT, CIT) during the pre- and post-accession period.

Key words: VAT, European Union, tax system harmonization, tax revenues and tax arrears.

1. INTRODUCTION

This paper attempts to present the way in which the Polish tax system functions, first and foremost with regard to the VAT in Poland in relation to the VAT in European Union member states.

An outline of the historical need to introduce the VAT in 1993 is presented which arose due to the necessity of harmonizing the Polish law with the tax system of the European Union member states.

New system solutions have been pointed out that are effective since May 1, 2004 and apply to trade exchange that takes place on the internal EU market. Tax rates, entitative and legal exemptions resulting from the Act on VAT of March

* DSc, associate professor, University of Warmia and Mazury in Olsztyn.

11, 2004 are presented in the context of value added tax rates effective in chosen European Union countries.

The research thread concentrates on the analysis of numerical data depicting VAT revenues and arrears in the light of other national taxes in Poland for the period between 2003 and 2005. Source materials for the period between 2003 and 2005 from the Tax System Department of the Ministry of Finance have been used for this assessment. These data made it possible to establish index values of taxpayer VAT indebtedness as compared to the Polish taxpayer indebtedness level, first and foremost in relation to direct income taxes (PIT, CIT) during the pre- and post-accession period.

2. VALUE ADDED TAX AS AN INSTRUMENT OF HARMONIZATION WITH EUROPEAN UNION LAW

The value added has functioned within the Polish tax system since July 5, 1993. It has been introduced for the first time by the Act on VAT and excise tax of January 8, 1993 ("Law Gazette" no. 11, item 50).

Important for its popularization and development was the choice of the VAT as the basic instrument of harmonizing the Polish law system with the tax system of European Union countries. The harmonization of taxes in the European Union is based on introducing a global value added tax (VAT) in all member states that has replaced the multistage sales tax existing up to that date in Poland (Kulicki, Sokół 1995, pp. 131–132).

By signing the Treaty of Accession, Poland committed itself to fully accept the whole body of European Communities law, the so-called *acquis communautaire*. The aforementioned body entails legal acts issued by Community institutions, case law of Community courts, directives of judgments of the European Court of Justice (ECJ) relating to this tax (Modzelewski et al. 2005, pp. 191–195).

The Act on VAT of 1993 has been in force for 11 years, i.e. since Poland's accession to the European Union. This act, however, did not guarantee full harmonization of this tax with the value added tax that has been in effect in other EU countries. Yet, while in effect, it allowed Polish taxpayers subject to paying the VAT to learn its basic principles and how to transfer it to the national budget.

The introduction of the VAT in 1993 was based on the following premises (Szyszko 2000, p. 162):

- choice of the VAT as the basic instrument of harmonizing the Polish tax system with European solutions,

- “tax neutrality and transferability”, which means that the VAT is in a way beyond the “price” of the goods and services offered and it is the end user (consumer) who is taxed,

- important role of the VAT in accumulating revenues for the state, especially its easy collection for the budget (but not for the taxpayers).

Due to the formal taxpayer, the VAT is an income type tax. It is charged on the income (turnover) obtained from the taxpayer selling goods and services.

Considering the real taxpayer (consumer, customer), however, in most cases the VAT has the properties of a consumer tax, since it is paid while expending one's earnings for consumer purposes and is included in the prices of consumer goods and services. It is also described as a tax from expenditures borne by households as end users of goods and services (Wach 2005, pp. 18–20).

Poland's accession to the European Union and the necessity to adjust tax regulations to the directives of the Council of the European Union was the reason for passing the Act on VAT of March 11, 2004 (“Law Gazette” no. 54, item 535 with later amendments).

The regulations of this act have been in effect since May 1, 2004 and are mainly based on the provisions of the First and Sixth Directive of the Council of the European Union (Sixth VAT Directive – commentary 2004).

The Polish Act on VAT has been modeled after legal acts regulating this tax in Community states. It took transitional periods relating to certain goods and services into account.

The inclusion of the Polish VAT in the Community tax system was connected with a change of the philosophy of using this fiscal instrument.

At the present point in time, a priority for the VAT in Poland is not only to guarantee budget revenues, but also the free flow of goods and services, including the elimination of double taxation and ensuring VAT neutrality for taxpayers.

When using the regulations of this act, we must get accustomed to utilizing the rich experiences of European Union countries and the judgments of the European Court of Justice (ECJ). This is the result of introducing many new concepts into the Act on VAT of March 11, 2004, including intra-Community purchase, intra-Community delivery or tripartite transactions (“Law Gazette” no. 54, item 535 with later amendments). New solutions also apply to real estate, consignment, transport, electronic, tourist (provided for their direct benefit) and other services.

The new act extended the scope of taxation by estates, intangible assets, certain types of compensation and acts carried out on the basis of cooperative law regulations. It also introduced an extended taxpayer definition.

While the act has been in effect, however, its regulations have turned out to be complex and ambiguous, and their interpretation is difficult not only for taxpayers. Quite often there the need arises to rely on the judgments of the Supreme

Administrative Court and the Provincial Administrative Courts. Interpretations issued by the Minister of Finance and IRS offices are also used. Since the accession to the European Union, the Sixth Council Directive 77/388 EEC of May 17, 1977 on to the harmonization of member states' legislation with regard to sales taxes – common system of value added tax has also been used; unified tax assessment basis¹ in accordance with Council Regulation (EC) no. 1777/2005 of October 17, 2005.

Due to the common market of European Union countries, the process of harmonizing tax regulations still continues. Indirect taxes are obligatorily subject to harmonization (direct taxes optionally).

The basis tax that exists in every member state is the value added tax, which is also true in the case of the Polish VAT.

One of the main purposes of harmonizing indirect taxes in countries of the European Union is ensuring tax neutrality within internal trade.

The necessity of ensuring competitiveness on the single European market has lead to a situation where European Union member states cannot impose any taxes on products or services originating from other Community member states, except for those imposed on their own products and services².

3. VAT RATES AND VAT EXEMPTIONS IN POLAND AND IN CHOSEN EUROPEAN UNION COUNTRIES

The tax base is specified in the regulations of Art. 29 of the Act on VAT of 2004. The regulations of the new act do not basically differ from the regulations that were valid until April 20, 2004, except for the fact that grants, subsidies and other similar means connected with the delivery or provision of services are now included in the tax base. The Act on VAT that has been in effect in Poland since May 1, 2004 keeps the basic rate of 22% of the tax base, as well as three reduced rates, i.e. 7%, 3% and 0% (Art. 41 and 146 of the Act on VAT).³

Due to pre-accession negotiations, Poland has been granted the right to apply tax rates that differ from the requirements specified in Art. 12 of the Sixth Directive (Art. 146 of the Act on VAT) during transitional periods. Compared to the previous act, the present act has significantly increased the taxation scope at

¹ Law Gazette L 145 of 1977-06-13, p. 1. The directive has been changed recently by the 2004/66/EC directive ("Law Gazette" L 168 of 2004-05-01, p. 35).

² Art. 90 of the Treaty establishing the European Union ("EU Law Gazette" C 235 of 24.12.2002).

³ Annexes no. 3, 4, 6 to the Act on VAT and Annex no. 1 to the decree of the Minister of Finance of April 27, 2004 with regard to the execution of certain regulations of the Act on VAT ("Law Gazette" no. 97, item 970 with amendments) constitute a list of goods and services for which the tax rate has been reduced from 22% to 7%.

a rate of 22% due to the broader legal scope of that act that taxes activities which until April 30, 2004 remained outside of this scope, i.e. geodesic, cartographic and printing services, agricultural machines and tractors. On the other hand, the legal scope of goods and services that are subject to a 7% taxation largely matches the catalog of goods and services specified in Annex H to the Sixth Directive (Zubrzycki 2005, pp. 447–453).

In all European Union countries entities conducting business activities are obliged to register as VAT payers. In the majority of countries, however, entitative exemptions are in use for entrepreneurs whose yearly sales do not exceed a certain limit (these limits are from 7 thousand to 76 thousand Euro) (Wach 2005, p. 67). There are countries like Spain, Sweden and Italy, where such entitative exemptions for companies do not apply.

In Poland, in accordance with Art. 113, par. 1, Act on VAT of 2004, entitative exemptions apply to taxpayers whose total taxable sales have not exceeded an amount in Polish Zloty that is equivalent to 10 000 Euro during the previous tax year, where the tax amount is not included in the sales value.

The issues of legal exemptions from the VAT, on the other hand, have been regulated in the Eight Section (Taxable Amount) of the decree of the Minister of Finance of April 27, 2004 regarding the execution of certain regulations of the Act on VAT ("Law Gazette" no. 97, item 970 with amendments). The application of the exemption as such makes it necessary to accurately establish the symbol of the given service or product according to the Polish Classification of Products and Services, as well as to penetratingly analyze the regulations that apply in this area.

The basic value added tax rate in European Union countries varies between 15% and 25%. One can distinguish European Union countries with high tax rates (21%–25%), average rates (18%–20%) and low rates (15%–15.5%). The highest rates are effective in Sweden, Denmark and Hungary. Germany, Spain, Luxembourg and Cyprus have the lowest rates.

Tax systems in some European Union countries function in such a way that if the income tax rate is low, a high value added tax rate applies, e.g. in Hungary the income tax is 16% and the VAT 25%; in contrast, in Germany income is taxed with up to 38.29% and the VAT rate is 16% (Wach 2005, p. 67).

4. RESEARCH RESULTS

In the research thread relating to the role and significance of the VAT with regard to collecting budget revenue, numerical data have been presented, depicting VAT revenues and arrears in the light of other national taxes in Poland in a dynamic and structural manner.

In order to carry out a comparative analysis of budget revenue and arrears with regard to the VAT, especially in the light of direct income taxes (PIT, CIT), source materials for the period between 2003 and 2005 from the Tax System Department of the Ministry of Finance have been used. Abolished taxes have also been taken into account. Due to their insignificance, these data have been disregarded for consideration purposes, however.

The research results have been enriched with the established index values depicting the taxpayer VAT indebtedness level as compared to taxpayer indebtedness with regard to other types of examined state taxes. The percent values of these indexes reveal a picture of outstanding tax relations, that is the concrete tax obligation in the given state tax that is "incumbent" upon the taxpayer in relation to the revenue from these taxes constituting budget income that is actually achieved for an exactly specified time period, i.e. in accordance with the Act on tax obligations in a calendar year. (art. 6 of the Act of December 19, 1980).

The assumed research time period of 2003–2005 entails the date of Poland's accession to the European Union (01.05.2004), with the necessity to adjust tax regulations to the directives of the Council of the European Union ("Legal Gazette of the European Union" L 288/1 of October 29, 2005). In addition, research entailing the period between 2003 and 2005 omits the indirect excise tax in the structure of tax revenue of IRS offices and the shaping of tax arrears. This is caused by regulations coming into effect that have established customs authorities as tax authorities, depriving IRS offices and tax chambers of the possibility to receive revenue from excise tax⁴ as of September 1, 2003 and VAT regarding imported goods as of January 1, 2004.

Research results are presented in Table 1, 2, 3.

Based on empirical data and own calculations we can say that:

- with regard to tax revenue, the VAT is one of the main tools of executing the budget revenues for the years 2003–2005 that are scheduled in the budget act. This is corroborated by the revenue structure from the VAT, especially compared to income taxes in the analyzed years. It shows the highest (above 50% on average) share of this tax in the global revenue value in the years 2003–2005. (Table 1). The personal income tax comes second (with an average share of state budget revenue of over 30%). The share of the corporate income tax, on the other hand, varied from 13% to 17% within the global budget revenue value (Table 1).

⁴ Act of June 27, 2003 on Creating Provincial Fiscal Courts and on amending certain acts specifying the tasks and competences of authorities and the structure of organizational entities subordinate to the minister competent for issues related to public finances ("Law Gazette" no. 137, item 1302).

Table 1

Dynamics and structure of VAT revenues in the light of other state taxes in Poland in the years 2003–2005

Item no.	Details	Gross tax revenues ^a as of December 31, 2003–2005 (in thousand PLN)			Dynamics (%)			Structure in (%) in the years		
		2003	2004	2005	2003/2002	2004/2003	2005/2004	2003	2004	2005
1	Value added tax (VAT)	61 062 489	62 536 048	58 535 725	104.90	102.41	93.60	54.43	53.00	47.86
2	Corporate income tax (CIT)	14 982 384	18 030 231	20 789 226	93.82	120.34	115.30	13.35	15.30	17.00
3	Personal income tax (PIT)	35 438 477	36 667 428	42 185 643	104.83	103.47	115.05	31.59	31.07	34.49
4	Gambling and lottery tax	702 447	766 387	791 614	103.94	109.10	103.29	0.63	0.65	0.65
5	Abolished taxes	2 203	1 917	2 349	1562.41	87.02	122.53	0.001	0.001	0.02
6	Total	112 188 000	118 002 011	122 304 559	103.24	105.18	103.65	100.00	100.00	100.00

^aGross tax revenues are revenues to tax authorities, including concrete state taxes collected by local government entities.

Source: own calculations based on source materials of the Ministry of Finance and the Tax System Department for the years 2003–2005.

- the VAT revenue dynamics has been showing a constant downward trend in the years 2003–2005. A particular significant decrease of tax revenue dynamics into the state budget has been observed after Poland's accession to the European Union. On average, it was hovering at ca. 9% (Table 1).

This can be explained by the reform of the tax system. The VAT was obligatorily subject to that reform. Due to pre-accession negotiations, Poland has been granted the right to apply tax rates during transitional periods that differ from the requirements specified in Art. 12 of the Sixth Directive. Preferential tax rates and the periods during which they apply are specified in Art. 146 of the Act on VAT. The regulation stipulates that beginning with Poland's accession to the European Union until the change of tax rates that is planned for 2008, the rates of 3%, 7% and 0% are applied in relation to taxable activities, the subject of which are goods and services specified in Annex no. 6 to this Act. This applies among others to food products, agricultural goods and services, construction and assembly works, refurbishments, housing construction objects, various gastronomic services etc.

The examination of the structure of tax arrears has shown the highest share of arrears in relation to VAT in the years 2003–2005 in the global arrears, as compared to income taxes. On average, this share amounted to ca. 67%, while for direct taxes, i.e. the personal income tax, the average yearly share was above 21%, and with regard to the corporate income tax 10% on average (Table 2).

- admittedly, the dynamics of VAT arrears during the years 2003–2005 shows an increase in VAT arrears after Poland's accession to the European Union from 87% to above 99% (Table 2). Based on earlier works (Olkowska 2007 pp. 287–289), however, one can see that tax arrears have been on a constant decrease from 10.5 million PLN in 2002 to 9.1 million in 2005. This was the result of remitting substantial tax arrears by IRS offices within restructuring proceedings that were carried out based on the Act of August 30, 2002 on restructuring certain public amounts from entrepreneurs ("Law Gazette" no. 155, item 1287 with amendments).

- arrear indexes for VAT revenues compared to other state taxes in the years 2003–2005 (excluding abolished taxes and taxpayer indebtedness due to corporate income tax in the year 2003 to the amount of 5.15%) state that high indebtedness levels occurred with VAT taxpayers in the years 2003–2005 (4.65%, 4.09%, 4.11% respectively (Table 3, Graph 1)). These were first and foremost the so-called tax obligations not paid in by taxpayers in a given year.

Despite a decrease of tax revenue in the year 2005 (Table 1) after the accession to the European Union, one could see positive changes in tax arrears compared to the year 2003, however (Table 2).

Table 2

Dynamics and structure of VAT arrears in the light of other state taxes in Poland in the years 2003–2005

Item no.	Details	Gross tax arrears ^a as of December 31, 2003–2005 (in thousand PLN)			Dynamics (%)			Structure in (%) in the years		
		2003	2004	2005	2003/2002	2004/2003	2005/2004	2003	2004	2005
1	Value added tax (VAT)	9 176 403	9 120 379	9 089 632	87.05	99.39	99.66	65.95	67.61	67.66
2	Corporate income tax (CIT)	1 534 012	1 389 323	1 258 245	115.63	90.57	90.56	11.03	10.31	9.36
3	Personal income tax (PIT)	2 962 539	2 776 517	2 957 357	108.43	93.72	106.51	21.29	20.58	22.01
4	Gambling and lottery tax	37 328	31 341	23 239	96.29	83.96	74.15	0.27	0.23	0.17
5	Abolished taxes	203 626	171 682	106 027	79.23	84.31	61.76	1.46	1.27	0.80
6	Total	13 913 908	13 489 242	13 434 500	93.40	96.94	99.59	100.00	100.00	100.00

^aGross tax arrears are arrears payable on an installment plan and deferred within enforcement proceedings that have been suspended due to conciliatory, bankruptcy or negotiation proceedings, that are subject to enforced debt collection and where no further action was taken.

Source: same as Table 1.

Table 3

Indexes depicting taxpayer VAT indebtedness in the light of other state taxes in Poland in the years 2003–2005
(revenues, arrears in thousand PLN)

Item no.	Details	As of December 31, 2003			As of December 31, 2004			As of December 31, 2005		
		Gross tax revenues	Current tax arrears	Indebtedness indexes in %	Gross tax revenues	Current tax arrears ^a	Indebtedness indexes in %	Gross tax revenues	Current tax arrears	Indebtedness indexes in %
1	Value added tax (VAT)	61 062 489	2 839 492	4.65	62 536 048	2 556 486	4.09	58 535 725	2 403 935	4.11
2	Corporate income tax (CIT)	14 982 384	770 995	5.15	18 030 231	454 947	2.52	20 789 226	310 399	1.49
3	Personal income tax (PIT)	35 438 477	1 022 015	2.88	36 667 428	909 878	2.48	42 185 643	986 773	2.34
4	Gambling and lottery tax	702 447	4216	0.60	766 387	5 234	0.68	791 614	11 460	1.45
5	Abolished taxes	2 203	272	12.35	1 917	86	4.49	2 349	128	5.45
6	Total	112 188 000	4 636 990	4.13	118 002 011	3 926 631	3.33	122 304 559	3 712 695	3.04

^aCurrent arrears are the difference between gross arrears of a given state tax during the examined tax year and the amount of arrears from previous years.

Source: same as Table 1.

This was due to the fact that substantial VAT arrears were remitted based on the restructuring act of 2002. Premises influencing the occurrence of preferable tendencies in the years 2004–2005 with regard to VAT collection were increased enforcement measures and the improvement of the country's economic situation. They made it possible to keep the indebtedness level around ca. 4.10% during the examined years (Table 3, Graph 1), even though VAT revenues significantly decreased by ca. 4 million in 2005 as compared to 2004.

- in the years 2003–2005, taxpayer indebtedness due to income taxes, especially the personal income tax, was running at 2.88%, 2.48% and 2.34% respectively (Table 3).

5. CONCLUSION

Based on the research results we may conclude that VAT revenues, both before and after accessing the European Union, had a leading role in shaping state budget revenues in the years 2003–2005. On the other hand, the highest VAT indebtedness level compared to the revenue of this tax in the light of indirect taxes gave reason to concern. This is where the peculiarity of VAT collection from taxpayers comes into play. This peculiarity is strictly connected with VAT taxpayers who conduct business activities keeping a financial liquidity and such occurrences as bankruptcies, insolvencies and liquidations that are related to it.

In the years 2003–2005, positive symptoms in the dynamics of VAT arrears occurred, i.e. one could notice preferable tendencies relating to VAT collection and remission of significant tax arrears within restructuring proceedings during this period.

REFERENCES

- Szyszkowski L. (red.), *Finanse przedsiębiorstwa*, PWE, Warszawa 2000
- Kulicki J., P. Sokół, *Podatki i prawo podatkowe*, Wydawnictwo Ekonomiczne, Warszawa 1995
- Modzelewski W., B. Kabas-Komorniczak, K. Baran, C. Pieńkosz, M. Unisk, P. Roksisz, J. Pyssa, *Wstęp do nauki polskiego prawa podatkowego*, Notebook 138, Instytut Studiów Podatkowych, Warszawa 2005
- Olkowska W., *Podatek od towarów i usług w świetle innych podatków państwowych w Polsce w latach 2000–2004*, [w:] B. Bernaś, W. Pluta (red.), *Zarządzanie finansami firm – teoria i praktyka*, „Prace Naukowe Akademii Ekonomicznej im O. Langeo”, Wydawnictwo Akademii Ekonomicznej im O. Langeo we Wrocławiu, 2007
- Wach K., *Systemy podatkowe krajów Unii Europejskiej*, Oficyna Wydawnicza, Kraków 2005
- Zubrzycki J., *Leksykon VAT*, Vol I, Oficyna Wydawnicza UNIMEX, Warszawa 2005
- VI Dyrektywa VAT, Komentarz do Dyrektyw Rady Unii Europejskiej dotyczących wspólnego systemu podatku od wartości dodanej, Wydawnictwo C. H. Beck, Warszawa 2004

*Wiesława Olkowska***PODATEK OD WARTOŚCI DODANEJ W KRAJACH UNII EUROPEJSKIEJ –
ANALIZA PORÓWNAWCZA**

System podatkowy Unii Europejskiej nie jest systemem jednolitym bowiem składa się z dwudziestu pięciu krajowych systemów podatkowych państw członkowskich. Wyjątkowa waga działań dostosowawczych w sferze podatku VAT wynika z kilku co najmniej powodów. Pierwszym jest fakt, że jest on wydajnym, pewnym i bardzo stabilnym źródłem dochodów dla budżetów krajowych we wszystkich państwach członkowskich UE. Drugim jest kluczowa rola tego podatku jako głównego instrumentu zapewniającego warunki swobodnego, opartego na zasadach uczciwej konkurencji przepływu towarów, usług i kapitału na wspólnym rynku europejskim. Trzecim powodem są wielorakie pozafiskalne skutki, jakie ten podatek wywołuje zarówno dla podmiotów gospodarczych, jak i osób fizycznych oraz gospodarstw domowych.

Niniejsza praca poświęcona jest problematyce funkcjonowania podatku VAT w krajach Unii Europejskiej. Szczegółowej analizie poddana została struktura stawek i zakres przedmiotowy podatku VAT oraz znaczenie tego podatku dla dochodów budżetowych państw Wspólnoty.

Słowa kluczowe: Unia Europejska, podatki pośrednie, VAT.