

Changes in the rules of taxation of personal income in the light of selected tax principles

Zmiany reguł opodatkowania dochodów osób fizycznych
w świetle wybranych zasad podatkowych

Изменения в правилах налогообложения доходов физических лиц в свете
избранных принципов налогообложения

Zmieni в правилах оподаткування доходів фізичних осіб
у світлі окремих принципів оподаткування

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Summary: This study analyses the directions of changes in the rules for taxing personal income introduced in 2021–2022 in the light of selected tax principles. The structure of the personal income tax in force since 1992 has been based on certain assumptions, referred to in the tax law doctrine as tax principles. Over thirty years, the shape of income tax has undergone numerous changes, which have led to a gradual departure from the initially adopted assumptions. The study assesses these changes from the perspective of the principles of equality, certainty, prohibition of retroactive law, protection of fairly acquired rights, statutory basis for taxes, clarity, stability and cheapness. The method used was dogmatic-legal research. As a result of the analysis, it can be stated that the changes introduced in the rules for taxing the income of natural persons, especially those implemented in 2021–2022, significantly violate tax principles, in particular the principle of equality and tax certainty.

Key words: tax principles, personal income tax, Polish Deal

Streszczenie: Przedmiotem opracowania jest analiza kierunków dokonanych w latach 2021–2022 zmian reguł opodatkowania dochodów osób fizycznych w świetle wybranych zasad podatkowych. Konstrukcja obowiązującego od 1992 r. podatku dochodowego od osób fizycznych opierała się na pewnych założeniach, określanych w doktrynie prawa podatkowego mianem zasad podatkowych. Na przestrzeni ponad trzydziestu lat kształt podatku dochodowego ulegał licznym przemianom, które prowadziły do stopniowego odejścia od początkowo przyjętych założeń. W artykule zaprezentowano ocenę dokonywanych zmian z punktu widzenia zasad: równości, pewności, zakazu działania prawa wstecz, ochrony praw sprawiedliwie nabytych, ustawowego umocowania podatków, jasności, stabilności i taniości. W badaniach posłużono się dogmatyczno-prawną metodą badawczą. W wyniku przeprowadzonej analizy można sformułować wniosek głoszący, że wprowadzane zmiany w regułach opodatkowania dochodów osób fizycznych, zwłaszcza te dokonane w latach 2021–2022, w istotny sposób naruszają zasady podatkowe, w tym w szczególności zasadę równości i pewności podatku.

Słowa kluczowe: zasady podatkowe, podatek dochodowy od osób fizycznych, Polski Ład

Резюме: Предметом исследования является анализ направлений изменений, вносимых в 2021–2022 годах в правила налогообложения доходов физических лиц в свете отдельных налоговых принципов. Действующая с 1992 года конструкция налога на доходы физических лиц базировалась на определенных исходных положениях, именуемых в доктрине налогового права налоговыми принципами. За более чем тридцатилетний период форма подоходного налога претерпела многочисленные трансформации, которые привели к постепенному отходу от первоначально принятых предпосылок. В статье представлена оценка произошедших изменений с точки зрения принципов: равенства, определенности, запрета

применения обратной силы закона, защиты справедливо приобретенных прав, законодательного закрепления налоговых прав, ясности, стабильности и дешевизны взимания. В исследовании использовался догматико-правовой метод исследования. В результате проведенного анализа можно сформулировать вывод о том, что внесенные изменения в правила налогообложения доходов физических лиц, особенно в 2021–2022 годах, существенно нарушают налоговые принципы, в частности принцип равенства и налоговой определенности.

Ключевые слова: налоговые принципы, налог на доходы физических лиц, программа «Польский Лад»

Резюме: Предметом дослідження є аналіз напрямів змін правил оподаткування доходів фізичних осіб у 2021–2022 роках у світлі обраних принципів оподаткування. Чинна з 1992 року конструкція податку на доходи фізичних осіб ґрунтувалася на певних вихідних положеннях, які в доктрині податкового права отримали назву принципів оподаткування. Протягом понад тридцяти років форма прибуткового податку зазнала численних трансформацій, які призвели до поступового відходу від початкових припущень. У статті представлено оцінку внесених змін з точки зору принципів рівності, визначеності, заборони зворотної сили, захисту справедливо набутих прав, законодавчого закріплення податків, зрозумілості, стабільності та дешевизни. У дослідженні використано догматико-юридичний метод дослідження. У результаті проведеного аналізу можна сформулювати висновок про те, що зміни, внесені до правил оподаткування доходів фізичних осіб, особливо у 2021–2022 роках, суттєво порушують принципи оподаткування, зокрема принцип податкової рівності та визначеності.

Ключові слова: правила оподаткування, прибутковий податок з фізичних осіб, Польський порядок

1. Rules of taxation of personal income – introductory remarks

Income earned by natural persons is subject to personal income tax, which is paid in accordance with the general rules, i.e., based on a progressive tier scale, or which may be subject to taxation based on simplified rules – in other words, covered by simplified forms of taxation.¹

Personal income tax, including its simplified forms, has undergone numerous transformations over the years. Changes pertained to the scope of the taxation object, tax rates, reliefs and exemptions. Simplified forms of income tax have also been subject to constant changes.

The changes have increasingly violated certain rules underlying the construction of personal income tax.

These rules may be defined as the principles of taxation which are understood, on the one hand, as postulates of representatives of the tax law doctrine constituting certain models for the normative solutions being developed and, on the other, as

¹ See the Act of 26 July 1991 on Personal Income Tax, consolidated text: Journal of Laws [Dziennik Ustaw] 2023 item 2760 as amended (hereinafter: the Income Tax Act) and the Act of 20 November 1998 on Lump-Sum Income Tax on Certain Revenues Earned by Natural Persons, consolidated text: Journal of Laws 2023 item 1414 as amended (hereinafter: the Lump-Sum Act).

features of these solutions that may be derived from the content of the regulations in force.²

This article aims to evaluate changes in the rules of taxation of personal income introduced mainly in 2021–2022 in the light of selected tax principles, especially tax equality, cheapness, certainty and convenience.

The article draws on an analysis of the content of normative acts, jurisprudence and literature. The dominant research method used in conducting the study, the results of which are described in the article, was the dogmatic method related to logical-language analysis and interpretation of the legal text.

The article puts forward the thesis that the changes introduced in the rules of taxation of personal income, especially those introduced in 2021–2022, materially infringe tax principles, in particular, tax equality and certainty.

2. Provisions of the Act on Personal Income Tax and the Act on Lump-Sum Income Tax in the light of selected tax principles

Personal income tax adopted in 1991 was based on the **general global tax** concept with few exceptions displaying the features of “schedular” tax. At present, the range of income not subject to aggregation is steadily growing. Hence, the model of general income tax is being gradually abandoned in favour of the concept of “schedular” tax, in which separate methods of determining the tax base and different tax rates apply to individual sources of income.³

² See in more detail: A. Gomułowicz, *Zasady podatkowe wczoraj i dziś*, Warszawa 2001; R. Kowalczyk, in: *Prawo finansowe*, eds. R. Mastalski, E. Fojcik-Mastalska, Warszawa 2013, p. 62; A. Gomułowicz, *Zasady podatkowe*, in: *System Prawa Finansowego*, vol. 3. *Prawo daninowe*, ed. L. Etel, Warszawa 2010, pp. 99–130; R. Zieliński, *Personalizacja w systemie obciążeń dochodów osób fizycznych w Polsce*, Warszawa 2019, pp. 27–66.

³ For more details on the two taxation models, refer to: R. Mastalski, *Prawo podatkowe II – część szczegółowa*, Warszawa 1996, pp. 45–46 and J. Szolno-Koguc, *Reforma polskiego systemu podatkowego w latach 1990–1995 (założenia a realizacja)*, Lublin 2000, pp. 79 ff., as well as W. Wójtowicz, *Podstawowe założenia nowych podatków dochodowych*, *Przegląd Sądowy* 1992, no. 9, pp. 3–4; P. Smoleń, in: W. Wójtowicz, P. Smoleń, *Podatek dochodowy od osób fizycznych – prorodzinny czy neutralny?*, Warszawa 1999, p. 26–27 and H. Radziszewski, *Nauka skarbowości*, Warszawa 1919, pp. 303–318, as well as S. Głabiński, *Wykład nauki skarbowej*, Lwów 1894, p. 346, and R. Rybarski, *Nauka skarbowości*, Warszawa 1935, pp. 266–268; E. Małecka-Ziembińska, *Podatek dochodowy jako regulator dochodów osób fizycznych w Polsce okresu transformacji ustrojowej*, Poznań 2006, pp. 48–50; J. Małecki, in: A. Gomułowicz, J. Małecki, *Podatki i prawo podatkowe*, Warszawa 2010, pp. 608–610.

The most recent examples illustrating the gradual abandonment of the concept of global tax include the coverage, from 2023, of rental income generated outside the taxpayer's business activities by a lump-sum tax on registered income⁴ or the constant expansion of the range of earnings from capital gains.⁵

Another principle which provides the perspective for assessing the changes introduced in the taxation of personal income is **the principle of equality**. It may be understood in a number of ways. It can be regarded as a rule according to which entities in the same situation should be treated equally by the provisions of tax law. More specifically, the principle allows for the differentiation of tax law situations between taxpayers in different circumstances but it prohibits any unjustified differentiation between taxpayers that would lead to a preference for or discrimination against any taxpayer group. Differential treatment, therefore, requires the existence of a relevant differentiating characteristic.⁶

Reasonable doubts may arise as to whether the absolute inability to deduct health insurance contributions paid by a taxpayer as part of a settlement in accordance with the general principles from the tax base, when there is a possibility to deduct part of those contributions by taxpayers paying income tax in different forms (a flat tax, a lump-sum tax on registered income, a tax card),⁷ is consistent with the principle of equality of taxation. In other words, whether the choice of the form of taxation is a sufficient differentiating characteristic for the introduction of different principles for calculating the health insurance contribution and for the possibility of deducting part of it from the tax base. By the end of 2021, the principles for deducting the health insurance contribution had been identical for all taxpayers who were natural persons paying the contribution, regardless of their sources of income and form of taxation.⁸ Given the above, the argument that the inability to

⁴ Article 2 (1a) of the Lump-sum Act, in the version provided in Article 9 (2) of the Act of 29 October 2021 amending the Act on Personal Income Tax, the Act on Corporate Income Tax and certain other acts, Journal of Laws 2021 item 2105.

⁵ Article 30b of the Income Tax Act, added by Article 1 (27) of the Act of 12 November 2003 amending the Act on Personal Income Tax, the Act on Corporate Income Tax and certain other acts (Journal of Laws 2003 no. 202, item 1956), amended, *inter alia*, by Article 1 (23) of the Act of 23 October 2018 amending the Act on Personal Income Tax, the Act on Corporate Income Tax, the Tax Ordinance and certain other acts, Journal of Laws 2018 item 2193.

⁶ A. Gomulowicz, *Zasady podatkowe wczoraj...*, pp. 27–33 and W. Łączkowski, in: *System finansów publicznych. Prawo finansowe wobec wyzwań XXI wieku*, eds. A. Dobaczewska, E. Juchniewicz, T. Sowiński, Warszawa 2010, pp. 19–26.

⁷ Article 26, Article 30c (2) (2) of the Income Tax Act, Article 11 (1a) of the Lump-Sum Act, Article 13, 31 (1) of the Lump-Sum Act.

⁸ With the exception of the tonnage tax (see the Act of 26 August 2006 on Tonnage Tax, consolidated text: Journal of Laws 2021 item 985 as amended; the deductibility of the health insurance contribution

deduct the contribution by those taxpayers who are taxed according to the progressive scale is compensated by the low tax rate in the first tier does not seem entirely legitimate. Moreover, a taxpayer paying personal income tax in accordance with the general principles, in addition to the inability to deduct the health insurance contribution from the tax base, applies a higher rate (than the taxpayers subject to a lump-sum tax on registered income) in its calculation.⁹ It is worth noting that the tax paid based on a tax card is often lower for taxpayers than the tax calculated using other forms of taxation, and still, those taxpayers are entitled to reduce the tax card amount by the part of the health insurance contributions that they have already paid.

Undoubtedly, 2022 was the year that brought the most severe **crisis of the principle of certainty in tax law**. In fact, one may argue that this principle is currently not a feature of taxation of personal income but merely a postulate of representatives of science and practice of tax law, intended for statutory solutions. Indeed, this principle has been violated in all possible aspects, i.e., in terms of:

- the prohibition of retroactive application of the law;
- the principle of protection of acquired rights;
- the order of statutory regulation of the content of tax obligations;
- the transparency of tax law;
- the postulate of stability of legal provisions.

Obviously, **the prohibition of retroactive application of law** is not absolute. In 2022, the solutions introduced with a retroactive effect, with regard to taxation of personal income, were designed to remedy the legislative errors of the Polish Deal (*Polski Ład*).¹⁰ Indeed, in this case, a better remedy could hardly be indicated, especially as the introduced solutions only seem to provide taxpayers with tax benefits. Nevertheless, the revolutionary nature of changes resulting from the Polish Deal, when combined with the relatively short *vacatio legis*, have made it significantly

from the tonnage tax was abolished as of 1 December 2008; more broadly: K. Wojewoda-Buraczyńska, *Zmiany w podatku tonażowym*, Przegląd Prawa Publicznego 2015, no. 3, pp. 74–84), see Article 27b of the Income Tax Act, Articles 13, 27 (1) and (2) in the version in force until the end of 2021.

⁹ Articles 79 (1), 79a (1), 81 (2e) and 2z of the Act of 27 August 2004 on Healthcare Services Financed from Public Funds, consolidated text: Journal of Laws 2022 item 2561 as amended.

¹⁰ *Polski Ład* (the Polish Deal) was a political plan aimed at rebuilding the Polish economy after the COVID-19 pandemic and reducing social inequalities, as well as creating better living conditions for all citizens. The programme assumed legislative changes in the area of tax law, healthcare services, housing policy, pension security, infrastructure etc., <https://www.gov.pl/web/polski-lad/o-programie> [access: 19.02.2024]. As part of the plan, a significant amendment to the Act on Personal Income Tax was enacted (Act of 29 October 2021 amending the Act on Personal Income Tax, the Act on Corporate Income Tax and certain other acts, Journal of Laws 2021 item 2105 as amended).

more difficult for taxpayers to adjust their business activities to the changing tax rules. In addition, the subsequent amendments to these rules introduced in the course of the tax year, but effective from the beginning of the tax year, have frustrated the initial effort. The remedy was to allow self-employed taxpayers or taxpayers generating income from rental outside their business activities to change the form of taxation during or even after the end of the tax year.¹¹ This solution may appear to fully meet the taxpayers' expectations – after all, they can decide on the form of taxation (and, consequently, on the principles for calculating social and health insurance contributions) after the end of the tax year, already having all the data necessary to select the most favourable form. Unfortunately, the possibility of changing the form of taxation does not entail the possibility of modifying the business activities undertaken by the taxpayer. In addition, certain legal actions performed for tax purposes are also not subject to modification. For example, a taxpayer earning income from a rental agreement regarding an asset covered by matrimonial joint property may not, during the tax year, change the declaration indicating which of the spouses will be subject to taxation of the generated rental income.¹²

The tax card has fallen victim to the ongoing revolution in the taxation of personal income. In its jurisprudence, the Polish Constitutional Tribunal has emphasised the importance of **the principle of protection of equitably acquired rights**, considering it a fundamental principle, from the point of view of taxpayers, which gives them certainty that their rights will not be abolished or restricted unexpectedly, abruptly and without good reason.¹³ Under the applicable regulations, since the beginning of 2022, taxpayers have no longer been allowed to opt for the tax card. However, it can still be used by those who paid tax in this form in 2021.¹⁴ It seems that, in order to maintain the principle of certainty of tax law and to protect the acquired rights, information about the inability to opt for the tax card should have been provided to taxpayers before the expiry of the deadline for choosing this form of taxation for 2021. This is, by no means, the only shortcoming of the provisions on the tax card. The prerequisites for taxation in the form of tax card, for taxpayers earning income from services in the field of protection of human health, have also been changed (more specifically, the taxation conditions applying before 2021, which were stricter, have been reintroduced). This implies that those taxpayers no

¹¹ Articles 14 and 15 of the Act of 9 June 2022 amending the Act on Personal Income Tax and certain other acts, Journal of Laws 2022 item 2180 as amended.

¹² Article 12 (6) to (8) of the Act on Lump-Sum Tax.

¹³ A. Gomułowicz, *Zasada sprawiedliwości podatkowej w orzecznictwie Trybunału Konstytucyjnego. Aspekt materialny*, Warszawa 2003, pp. 51–56.

¹⁴ Article 25 (1) (1) of the Lump-Sum Act.

longer have the right to apply for taxation in the form of a tax card.¹⁵ As stated in the justification for the draft amendment, the extension of the scope of the tax card in 2021 – according to the author of the draft – has become inadequate for this form of taxation. According to the originator of the amendment, this form of a flat-rate income tax should be addressed to taxpayers carrying out small-scale business activities, while maintaining the possibility for doctors to continue taxation in the form of a tax card, under the current principles, was considered unjustified.¹⁶ Bearing in mind that both the extension of the scope of the tax card and the reintroduction of the previous legal status were approved by the Prime Minister, such a rationale suggests that the reconstruction of the tax system is not the result of a conscious implementation of the adopted fiscal policy but merely a chaotic reaction to previous legislative actions that seem to have not been fully thought-out.

Given the justification for introducing the amendment, an allegation that the amendment is arbitrary in nature and violates the principle of protection of acquired rights seems justified.¹⁷

Establishing the tax obligation based on statutory provisions is a well-known principle.¹⁸ The changes to taxation of personal income introduced in the 2022 tax year were based on statutory provisions. Therefore, from the formal point of view,

¹⁵ Part VIII of Annex 3 to the Lump-Sum Tax Act in the version given by the Act of 29 October 2021 amending the Act on Personal Income Tax, the Act on Corporate Income Tax and certain other acts, Journal of Laws 2021 item 2105 as amended.

¹⁶ Explanatory Memorandum to the Act amending the Act on Personal Income Tax, the Act on Corporate Income Tax and certain other acts, 9th Sejm, Sejm paper no. 1532, 8.09.2021, p. 396.

¹⁷ See judgements of the Polish Constitutional Tribunal: of 4 June 2013, P 43/11, OTK ZU 2013, no. 5A, item 55; of 14 June 2000, P 3/00, OTK ZU 2000, no. 5, item 138; of 13 March 2006, P 8/05, OTK ZU 2006, no. 3A, item 28; of 25 June 2002, K 45/01, OTK ZU 2002, no. 4A, item 46; of 7 February 2001, K 27/00, OTK ZU 2001, no. 2, item 29; of 29 January 1992, K 15/91, OTK ZU 1992, item 8; of 24 October 2000, SK 7/00, OTK ZU 2000, no. 7, item 256; of 4 January 2000, K 18/99, OTK ZU 2000, no. 1, item 1; of 15 July 1996, K 5/96, OTK ZU 1996, no. 4, item 30; of 13 March 2000, K 1/99, OTK ZU 2000, no. 2, item 59; of 28 April 1999, 3/99, OTK ZU 1999, no. 4, item 73; of 22 June 1999, K 5/99, OTK ZU 1999, no. 5, item 100; of 15 September 1998, K 10/98, OTK ZU 1998, no. 5, item 64; of 15 February 2005, K 48/04, OTK ZU 2005, no. 2A, item 15; of 8 April 1998, K 10/97, OTK ZU 1998, no. 3, item 29; of 25 November 1997, K 26/97, OTK ZU 1997, no. 5, item 64; of 9 May 2006, K 4/05, OTK ZU 2006, no. 5A, item 55; of 16 September 2003, K 55/02, OTK ZU 2003, no. 7A, item 75; of 25 April 2001, K 13/01, OTK ZU 2001, no. 4, item 81, see also *Studia i materiały Trybunału Konstytucyjnego*, vol. 20. *Zgromadzenie Ogólne Sędziów Trybunału Konstytucyjnego*, Warszawa 2004, pp. 263–265, see in more detail: T. Zalasinski, *Zasada prawidłowej legislacji w poglądach Trybunału Konstytucyjnego*, Warszawa 2008, pp. 106–149.

¹⁸ Article 217 of the Constitution of the Republic of Poland of 2 April 1997, Journal of Laws no. 78, item 483 as amended; A. Gomułowicz, *Zasady podatkowe*, in: *System Prawa Finansowego*, vol. 3, pp. 108–110; Z. Ofiarski, *Źródła prawa finansowego i problemy legislacji finansowej*, in: *System Prawa Finansowego*, vol. 1. *Teoria i nauka prawa finansowego*, ed. C. Kosikowski, Warszawa 2010, pp. 175–238.

this principle now appears to be fully respected. However, when reading the current legislation, one may draw the conclusion that the actual taxpayers' obligations and rights appear somewhat ambiguous in light of the provisions of the tax acts. It is a common practice to apply new tax solutions only after they have become the subject of individual tax law interpretations. However, it is important to note that, while tax interpretations obviously perform a very important protective function for taxpayers, they should not be considered an indispensable element in the process of tax law implementation. Meanwhile, where the taxpayer's activity is not subject to a statutory deadline, it has become a rule not to apply the new tax provisions before the corresponding tax interpretations appear. This was the case at the beginning of 2021 when doctors opted for the tax card. Some taxpayers did so bearing in mind the possibility of withdrawing their decision in the event of an unfavourable interpretation. Others, in turn, postponed their decision in this regard to the following tax year when, as is known, opting for the tax card was no longer possible due to legislative amendments.¹⁹

The need to await tax law interpretations in almost every case, before implementing a newly introduced tax rule, seems to violate the principle of statutory regulation of the content of tax obligations and **the principle of clarity**, and thus also transparency of tax law. At the same time, the principle of tax certainty, understood as the postulate of creating the content of tax law obligations and rights in a manner predictable for the taxpayer, is also undermined.²⁰

It seems rather self-explanatory that **the principle of stability of tax law**, with regard to personal income tax, is now merely a postulate of representatives of science and practice of tax law, intended for statutory solutions. Instability has indeed become a feature of personal income tax, including its simplified forms. This is not a new feature, though. Personal income tax is one of the most frequently amended taxes (along with corporate income tax, and goods and services tax). Since 1991, the Act on Personal Income Tax has been amended almost 400 times.²¹

¹⁹ Part VIII of Annex 3 to the Lump-Sum Act in the version given by the Act of 29 October 2021 amending the Act on Personal Income Tax, the Act on Corporate Income Tax and certain other acts.

²⁰ A. Gomułowicz, *Zasady podatkowe wczoraj...*, pp. 13–39; T. Dębowska-Romanowska, *Uwagi o sposobie definiowania przedmiotu i podstawy opodatkowania z punktu widzenia obliczenia prawidłowej (jednej i jedynej) kwoty podatku*, in: *Księga pamiątkowa ku czci profesora Apoloniusza Kosteckiego*, eds. B. Brzeziński et al., Toruń 1998, pp. 44–45 and A. Gomułowicz, *Sprawiedliwość opodatkowania jako przesłanka prawodawcza i orzecznicza*, *Zeszyty Naukowe Sądownictwa Administracyjnego* 2008, no. 1, p. 26.

²¹ P. Polański, *Dynamika częstotliwości zmian prawa podatkowego w latach 2006–2016*, *Doradztwo Podatkowe – Biuletyn Instytutu Studiów Podatkowych* 2016, no. 9, pp. 18–20.

In contrast, a principle that seems to be applied much better over time is **the principle of cheapness of tax**. Undoubtedly, the advancing computerisation of contacts between taxpayers and tax authorities is conducive to lowering the costs of collecting income tax, including its simplified forms. Reduced tax collection costs result, *inter alia*, from the automated processing of information on the income or revenue earned by taxpayers through payers. This means that, using the appropriate software, it is possible to calculate the amount of tax without the involvement of the tax authority and the taxpayer. This reduces the time that both the authority and the taxpayer spend calculating the applicable tax liability. It also minimises the risk of errors in this regard. Even in the absence of any activity on the part of the taxpayer, they are able to meet the obligation to submit a tax return on time.²² It is worth emphasising that the software available on government websites, which is necessary for the correct fulfilment of taxpayers' obligations, is free of charge for users, which strongly favours the cheapness of tax from the taxpayer's point of view. Creating a solution that enables the automation of tax settlements, data storage and electronic correspondence with the tax authority has obviously entailed substantial financial outlays on the part of active entities. It seems, however, that the incurred costs are compensated by the benefits resulting, for instance, from the automatic elimination of accounting errors and self-sending of tax returns within the statutory deadline, even in the case of the taxpayer's passivity in this respect.

In the case of taxpayers who do not receive income through a payer, more and more solutions are being introduced to speed up the process of submitting annual income tax returns. The automatic mathematical calculations performed by tax return processing programmes have undoubtedly facilitated the entire procedure. It is not even required to have the necessary hardware and software to make use of these facilities. Taxpayers who do not have access to a computer (or to any other device connected to the Internet) can file their tax returns online at their tax office.²³ From a technical point of view, it is indeed becoming easier for taxpayers to contact the tax authority.

Unfortunately, the previously mentioned shortcomings of the tax law regarding personal income tax may be a source of additional expenses on the part of the taxpayers, increasing the costs related to tax payments. Due to numerous changes in the applicable regulations and their complexity, an increasing number of taxpayers

²² Article 45 cd (4) of the Income Tax Act.

²³ Such a possibility is a form of fulfilment of the obligation to provide taxpayer service and support to ensure the proper performance of tax obligations by heads of tax offices, resulting from the Act on the National Revenue Administration, Article 28 (1) (5) of the Act of 16 November 2016 on the National Revenue Administration, consolidated text: Journal of Laws of 2023 item 615 as amended.

are unable to cope with the correct fulfilment of their tax obligations on their own. Consequently, they are forced to use the services of tax advisers, accountants, legal advisers or other professional assistants. Given the above-mentioned circumstances, the cost of these services is constantly increasing, more time is spent on reading the regulations in force and searching for the corresponding tax interpretations, and the unpredictability of decisions made by tax authorities further increases the risk related to the advisory activity. The taxpayers who until recently have managed to independently handle their profit and loss accounting and taxes are often no longer able to choose the best form of taxation, especially when this needs to be done twice a year, as was the case in the 2022 tax year. From this point of view, the costs of tax collection have not decreased at all.

The last principle to be discussed in this article is **the principle of tax convenience**. As has already been mentioned, it is probably for the first time in the history of personal income tax that a taxpayer running a non-agricultural business activity or earning income from a rental agreement could choose the form of taxation after the end of the tax year. It would, therefore, seem that the postulate of tax convenience is now fully implemented. Unfortunately, this is not the case as there are three main drawbacks of the current solutions, significantly affecting their overall assessment.

First, the right to change the form of taxation was granted to taxpayers in the middle of the tax year. Taxpayers, starting the tax year under the Polish Deal regime, could take a number of actions, for example, as to the form of cooperation with contractors, as to business activity, the profile of activity or even the organisational form of activity. For some taxpayers, in view of the measures taken, the right to change the form of taxation appears illusory.

Second, together with the choice of the form of taxation, taxpayers choose the rules for calculating social security and health insurance contributions, including tax preferences in this respect. There is a serious concern that the average taxpayer will not be able to choose the most favourable form of taxation in view of the numerous variables affecting their fiscal burden.

Third, the possibility of changing the form of taxation does not extend to other actions that the taxpayer takes solely for tax purposes. It is clear that the legislation cannot grant taxpayers the right to evade agreements concluded with their contractors. What seems incomprehensible is that the possibility of modifying, together with the form of taxation, declarations made for tax purposes is not granted, as in the case already mentioned concerning the indication of the spouse subject to taxation with respect to rental income.

Conclusion

In conclusion, it can be seen that many of the directions of changes in the rules of taxation of personal income deserve criticism. Therefore, it is worth seeking ways to limit the described phenomena. Many shortcomings could be avoided if social consultations played a greater role in law-making. Undoubtedly, haste in the legislative process is not conducive to the quality of legislation either. It is also worth considering efforts to reduce the influence of current political needs on the shape of tax regulations.²⁴

The year 2023 brought relative stability in terms of personal income tax. Although the Act on Personal Income Tax was amended more than 20 times, the changes introduced were not revolutionary. In connection with the parliamentary elections and the preceding election campaign, there were many different proposals for changes to the tax law. It would seem reasonable to infer that taxpayers, in anticipation of the fulfilment of these election promises, have switched – so to speak – to the standby mode and postponed any significant modifications to their business activities until specific legislative proposals are announced. Unfortunately, this does not seem to be optimal for the economy, as these actions on the part of taxpayers are hardly dictated by the economic situation. They rather indicate that taxpayers are awaiting the subsequent tax changes. The increasing use by the Ministry of Finance of consultation meetings devoted to the introduced changes should be considered a positive direction. One can only hope that, on the one hand, the parties concerned will decide to actively participate in the tax law-making process and, on the other, that the postulates raised will be taken into account in the legislative process.

At present, there seems to be no coherent, unified concept regarding tax policy.²⁵ Admittedly, the trend towards computerisation of the tax calculation and collection process, which is dictated by the desire to tighten up the tax system, can be observed quite clearly. The proper fulfilment of tax obligations is in the interest of both

²⁴ W. Modzelewski, *Co zrobić z chaosem legislacyjnym w prawie podatkowym?*, Doradztwo Podatkowe – Biuletyn Instytutu Studiów Podatkowych 2024, no. 2, p. 50; B. Brzeziński, *Zagadnienie reformy prawa podatkowego*, in: *System Prawa Finansowego*, vol. 3, pp. 479–491; J. Malecki, *Formy prawne stosowania prawa finansowego*, in: *System Prawa Finansowego*, vol. 1, pp. 329–385; W. Modzelewski, *List otwarty*, Doradztwo Podatkowe – Biuletyn Instytutu Studiów Podatkowych 2023, no. 9, p. 69; K. Nizioł, *Polski Ład z perspektywy zasad poprawnej legislacji*, in: *Polski Ład a opodatkowanie dochodów. Ujęcie prawne, finansowe i ekonomiczne*, ed. E. Małecka-Ziembińska, Poznań 2023, pp. 17–30.

²⁵ A. Pomorska, *Potrzeba zmian w systemie podatków dochodowych w Polsce oraz dotychczasowe próby ich reformowania*, in: *Potrzeba i kierunki reformy podatków dochodowych w Polsce*, ed. A. Pomorska, Lublin 2016, pp. 15–20; B. Brzeziński, *Reformy podatkowe – teoria i doświadczenie polskie*, in: *Systemowa reforma podatków dochodowych*, eds. B. Brzeziński, W. Nykiel, Warszawa 2009, pp. 3–11.

the State Treasury and taxpayers. Stable budget revenues guarantee the continuity of financing public tasks, which may be conducive to maintaining public burdens at an unchanged level.

Presumably, the formulation of tax policy assumptions and directions, followed by their consistent implementation, would increase the predictability of tax law, and thus its instability would cease to be an unintentional, albeit strongly influential, legal and financial stimulus,²⁶ often determining taxpayers' behaviours.

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²⁶ H. Reniger, in: *System instytucji prawno-finansowych PRL*, vol. 1. *Instytucje ogólne*, ed. M. Weralski, Wrocław 1982, pp. 319–347; M. Weralski, in: *ibidem*, pp. 522–526; N. Gajl, *Teorie podatkowe w świecie*, Warszawa 1992, pp. 198–200; M. Weralski, *Kierunki reformy polskiego systemu podatkowego*, Warszawa 1960, pp. 32–36; J. Głuchowski, *Wstęp do skarbowości*, Poznań 1997, pp. 55–60; *idem*, *Polskie prawo podatkowe*, Warszawa 1998, pp. 16–20; W. Wójtowicz, *Problem „prorodzinności” podatku dochodowego od osób fizycznych*, in: *Konstytucja, ustroj, system finansowy państwa. Księga pamiątkowa ku czci prof. Natalii Gajl*, eds. T. Dębowska-Romanowska, A. Jankiewicz, Warszawa 1999, pp. 407–422; W. Nykiel, *Normy prawa finansowego*, in: *System Prawa Finansowego*, vol. 1, pp. 45–46.

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