

Dorota Burzyńska
University of Łódź

TAX JURISDICTION OF COMMUNES IN POLAND AND METHODS OF ITS IMPLEMENTATION

The aim of the study was to determine the possibility of using methods of implementing the tax governance of municipalities in the field of local taxes and to assess the importance of using government for the financial planning of the municipality in the conditions of the financial crisis. In order to achieve the goal, 60 randomly selected communes of various types were analyzed. The following methods were used: literature analysis, analysis of local legal acts, in-depth interviews, and statistical studies. Data for the years 2019-2021 was used for the analysis. On the basis of the analyzed material, it was found that there is a diversified scope of using the methods of tax governance in communes. Tax jurisdiction is an important factor influencing the financial policy of communes in the opinion of the respondents, but the use of these methods in practice in the analyzed period was very limited. The analyses show that the communes perceive the risk of legal and financial changes, and most do not use the methods of exercising power due to limited income and an increase in expenses related to the crisis after the pandemic.

Keywords: local taxes, tax authority, community

JEL codes: H2, H3

Introduction

Local self-government participates in the exercise of public authority. It performs public tasks assigned to itself under statutes on its own behalf and under its own responsibility¹. It is a representative form of organization of civil society, as well as local and regional authorities with a democratic character, in a given territory. Local government is legally established to perform certain types of tasks. The local government system works on the basis of dualism, which means that the government administration, and the rest by local governments carry out some tasks.

Local self-government creates, by operation of law, a local society which is managed directly or by means of bodies selected by it, and carries out tasks in the field of public administration delegated by the legislator². The independence of action largely depends on the scope and type of powers entrusted to local governments by the state. Thus, self-government independence means that it carries out selected tasks independently and

¹ K. Chochowski: Zadania samorządu gminnego w Polsce w sferze bezpieczeństwa i porządku publicznego, [in:] M. Stec, S. Płażek (eds), Charakter i konstrukcja zadań samorządu terytorialnego, Wolters Kluwer, Warszawa 2017, p. 113.

² Ł. Satoła, A. Standar, A. Kozera: Financial Autonomy of Local Government Units: Evidence from Polish Rural Municipalities, Lex Localis-Journal, Of Local Self-Government, 17, 2/2019, p. 321-342.

independently of the will of other entities. Local self-government is characterized by independence and self-reliance³.

Independence covers all spheres of its activity. Units of local self-government have the right to decide, within the limits of statutes, about their internal system and have the right to create their own Administrative organs. They are equipped with their own assets and also have a constitutionally guaranteed share in public revenues. Independence is an essential and fundamental feature of self-governance⁴. The basis of self-government is legal subjectivity separate from the state. Local government bodies cannot be equated with government administration bodies because they are not hierarchically subordinate to them; they are only subject to supervision carried out according to the legality criterion.

The tasks of the commune are carried out with the help of the possessed financial means. They come from three sources: their own income, external transfers, and loans and credits. This means that municipalities run financial management with an income of a diversified nature. The catalog of incomes and the rules for their determination and accumulation are included in the Act on the Income of Local Government Units⁵. The act stipulates that the revenues of local government units are their own revenues, general subsidy, and specific subsidies. Income also constitutes a share in the receipts from personal income tax and corporate income tax. In addition, these may be non-returnable funds from foreign sources, funds from the European Union budget, as well as other funds specified in separate regulations. The main and the most stable source of financing for implementing the commune's tasks is its own income. It is [to them] the commune that has the statutory right to obtain them while using other sources at the same time.

The sources of income at the disposal of municipalities largely determine their independence in terms of income. It is about the ability to run and implement your own commune's fiscal policy⁶. This is due to the granted tax authority, thanks to which the commune is able to shape the structure of local taxes and fees in its territory. In this respect, this function is reduced to the role of the tax authority. They include all tax benefits that constitute the income of the commune's budget and may be shaped to some extent by the commune council⁷. The authorities' actions must comply with the relevant regulations, strategic and planning documents (at the national, regional and local level), and with the principle of sustainable development and spatial order.

In addition, they must be run socially and economically efficiently. This requires rational fiscal policy within limited revenues. The commune is the basic unit of local self-

³ J. Hałat-Majka: Władza stanowiąca a zrównoważony rozwój samorządu terytorialnego, [in:] S. Stachera Włodarczyk, S. Cichoń (eds), *Zrównoważony rozwój w zarządzaniu*, Wydawnictwo Wydziału Zarządzania Politechniki Częstochowskiej, Częstochowa 2018, p. 22.

⁴ M. Mączyński: *Reforma ustroju samorządu terytorialnego: uwarunkowania, możliwości i konsekwencje zwiększenia samodzielności JST, MSAP*, Kraków 2014, p. 10.

⁵ Ustawa z dnia 13 listopada 2003 o dochodach jednostek samorządu terytorialnego, Dz.U. z 2021 r. poz. 1672 as amend.

⁶ T. Wołowicz: *Konkurencyjność podatkowa gminy w kontekście posiadania lokalnej strategii podatkowej*, *Samorząd Terytorialny* 7-8/2020, p. 151.

⁷ L. Eteł, R. Dowgier, G. Liszewski, B. Pahl: *Podatki i opłaty lokalne. Komentarz*, Wolters Kluwer, Warszawa 2020, p. 20.

government that meets the important needs of the inhabitants⁸. This study aims to assess the use of methods of implementing tax authority using the example of municipalities. By assessing the extent to which delivery methods are used, actions can be taken to better cope with the problems of limited financial resources and increased expenditure. The study discusses the essence of financial and tax governance and the methods of their implementation. The methods used were analyzed in terms of their potential impact on local fiscal policy. In the literature on the subject, in the studies of domestic authors, the analysis of financial independence or income lost due to tax changes is most often performed.

The essence of financial and tax governance

Sovereignty is an extremely broad category and can, therefore, be divided into many different types. First of all, from the general concept of sovereignty, one can distinguish financial sovereignty, which can be divided into state financial sovereignty, local financial sovereignty, as well as income financial sovereignty and expenditure financial sovereignty⁹. The first of these divisions is based on the criterion of the subject having sovereignty. The second one is according to the criterion of the direction of cash flow. The primary and independent owner of financial power, which is its attribute and testifies to its sovereignty, is the [nation] state as the highest and superior public-law entity. The separation of other public-law unions within the state is inextricably linked with the delegation of some tasks and appropriate financial resources to their implementation.

Financial decentralization is, thus, connected with the need to decentralize financial power and, at the same time, is an integral part of the taxing power. The financial power of a commune is the foundation of a broader and more general category, which is the independence of local government units. Independence is an attribute of local government. However, this concept is ambiguous (we distinguish independence: political, administrative, or financial)¹⁰. It manifests itself as the possibility to decide about one's own affairs under the applicable law, independently of other entities. Independence means that the commune can carry out tasks on its own responsibility. This does not mean, however, that it is free to legislate. It results, among other things, from the principle of decentralization enshrined in the Polish Constitution¹¹ or the European Charter of Local Self-Government¹². In this respect, it is the provisions of law that determine the scope within which the commune may enact local law. The activities of the local government are determined by the acts at central level and the normative acts of the local government. However, it should be noted that most of the tasks carried out by local governments are tasks imposed, to a large extent, by the state through statutes. This creates a kind of danger in terms of

⁸ R. Marks-Bielska, J. Kozajda: Gospodarowanie budżetem gminy w kontekście funkcjonowania gospodarki lokalnej, *Humanities and Social Sciences* 23, 25 (3/2018), p. 202.

⁹ P. Mańczyk: Władztwo finansowe jednostek samorządu terytorialnego w kontekście uprawnień gminy, *Ekonomiczne Problemy Usług* 4/2018, p. 209.

¹⁰ E. Ruśkowski, J.M. Salachna: *Finanse lokalne po akcesji*, Oficyna Wydawnicza Wolter Kluwer Business, Warszawa 2007, p. 27-28.

¹¹ Konstytucja Rzeczypospolitej Polskiej z dnia 2 kwietnia 1997 r. uchwalona przez Zgromadzenie Narodowe w dniu 2 kwietnia 1997 r., przyjęta przez Naród w referendum konstytucyjnym w dniu 25 maja 1997 r., podpisana przez Prezydenta Rzeczypospolitej Polskiej w dniu 16 lipca 1997 r., Dz.U. z 1997 r., nr 78, poz. 483.

¹² Europejska Karta Samorządu Terytorialnego, sporządzona w Strasburgu dnia 15 października 1985 r., Dz.U. z 1994 r., nr 124, poz. 607.

assigning responsibility for the tasks performed. The constitutional approach to the independence of local government can be analyzed in two aspects (i.e., concerning independence from government administration and based on the implementation of tasks related to satisfying the needs of residents¹³). It should be noted that independence includes systemic, organizational, administrative, legal, economic, and financial aspects. In the literature, this concept is analyzed based on economic and legal sciences¹⁴. On the basis of legal sciences, financial independence of local government is recognized as an institution of public law. Such an approach to independence has its consequences in the obligation to include regulations related to it in the act of statutory rank. The economic dimension is determined by the funds and property used to perform tasks and the right to dispose of an independent budget. Financial independence is closely related to the powers of the local government to establish its own sources of income and the freedom to spend this income adequately for the tasks performed¹⁵.

Financial independence can be defined as the scope of the decision-making independence of the local government in the context of the possibility of conducting its own fiscal policy in a given area¹⁶. The financial independence of a local government unit covers a wide range of rules and tasks that determine a local community's overall activity in meeting the local community's collective needs¹⁷. It can also be understood as the right to have sufficient funds to carry out the tasks of local government. It is also the guiding principle of the financial management of local government units. It does not imply absolute financial autonomy or self-financing.

The boundaries, in this respect, are determined by the provisions of the Constitution of the Republic of Poland and laws which list restrictions in the fields of budget planning, administration of public funds, tax authority (to the extent permitted by law), local government debt management, deficit financing, limiting restrictions (including prudential and sanction procedures), public finance discipline, and supervision and control over the activities of local government units. Income independence consists of¹⁸: equipping them with their own and indefinitely assigned sources of income and granting limited power to create this income; owning property, which can be a source of income as well as a form of security for credits and loans; having legally guaranteed access to financial markets; the possibility of operating based on a self-adopted budget.

¹³ B. Pachuca-Smulska: Samodzielność jednostek samorządu terytorialnego na przykładzie działań powiatowego (miejskiego) rzecznika konsumentów. *Zarządzanie publiczne, Funkcjonowanie jednostek samorządu terytorialnego, w aspekcie wielowymiarowym, Przedsiębiorczość i Zarządzanie*, 8, 2, 1/2017, p. 136.

¹⁴ W. Miemiec: Europejska Karta Samorządu Terytorialnego jako zespół gwarancji zabezpieczających samodzielność finansową gmin – wybrane zagadnienia teoretyczno-prawne, *Samorząd Terytorialny*, 10/1997, p. 56.

¹⁵ T. Uryszek: Samodzielność finansowa jednostek samorządu terytorialnego. Polska na tle wybranych krajów Unii Europejskiej, *Finanse Komunalne*, 12/2015, p. 5.

¹⁶ M. Poniatowicz: Determinanty autonomii dochodowej samorządu terytorialnego w Polsce, *Nauki o Finansach* 1 (22)/2015, p. 15-16.

¹⁷ A. Kawecka, G. Zalas: Gmina jako jednostka samorządu terytorialnego podmiotem odpowiedzialnym za realizację zadań z pomocy społecznej na przykładzie domów pomocy społecznej, [in:] M. Stec, K. Malysa-Sulińska (eds), *Podmiotowość samorządu terytorialnego a zakres jego zadań i kompetencji*, Wolters Kluwer, Warszawa 2020, p. 176.

¹⁸ K. Brzozowska, M. Kogut-Jaworska: Władztwo podatkowe w ocenie samodzielności dochodowej gmin w Polsce, *Annales Universitatis Mariae Curie-Skłodowska Lublin–Polonia, Sectio H, L.* 1/2016, p. 328.

The power of creating income is part of financial power. Financial power includes power in the sphere of expenses and the budget. The realization of the financial power of the commune should be considered the fact that the commune can accumulate income at its own discretion to carry out the public tasks entrusted to it. Running your own financial management is an inseparable attribute of the commune's activity. Financial sovereignty boils down to pursuing an independent policy (mainly in terms of income) with the possibility of taking advantage of imperative measures. The financial sovereignty of a commune can be analyzed concerning various legal constructions. They include: enacting local regulations by way of resolutions, issuing individual administrative acts, concluding administrative agreements, concluding civil law contracts, and establishing commercial law companies. The special nature of the commune's financial control is manifested by the enactment of local law. This is done in areas such as the financial economy and the tax economy. Individual tax decisions are issued, and financial relations of a civil law nature are created (e.g., issuing local government bonds, taking out loans and borrowings¹⁹). The shape of such rules is defined in legal provisions that have the rank of an act.

Financial sovereignty should be considered on two levels. On the one hand, it is financial dominance manifested in the enactment of a law in a given commune; on the other hand, it is in the area of law enforcement. The financial power of the commune is regulated by law and exercised within the framework of the law. It is subject to the supervision and control of other state bodies that are independent of state bodies. The fact that the commune has the above-mentioned sovereignty leads to a situation in which it is perceived as an independent entity and capable of performing public tasks. The essence of the commune's financial control consists of the possibility of creating conditions for the independent realization of one's own and commissioned tasks. This goal can be achieved by adequately equipping the commune with financial resources and, at the same time, allowing it to administer these resources on its own. In the context of financial self-government income dominance, a certain separate category is tribute dominance²⁰. They can be divided into: tax ruling, fee ruling, and ruling over other public levies. Some authors believe that there is no need to divide the power of the tribute into that which is to be state and local²¹. However, such a division seems necessary as it is already taking place at the level of financial governance. The natural consequence of this division also comes down to the level of tribute dominion. However, such a division does not mean that the two categories are equal. The existence of tribute control results from the fact that the state needs the resources necessary to carry out its tasks. Therefore, it must have appropriate instruments that allow it to obtain funds that will later be redistributed to meet social needs. One such instrument is the law to establish taxes. In Polish legislation, the rule of tribute is enshrined in Article 168 and Article 217 of the Polish

¹⁹ J. Boć: *Nauka administracji Podręcznik Uniwersytecki*, Kolonia Limited, Warszawa 2013, p.79.

²⁰ K. Bandarzewski. P. Chmielnicki: *Prawo samorządu terytorialnego w Polsce*, Beck, Warszawa 2012, p.80.

²¹ P. Mańczyk P: *Władztwo finansowe...*, 2018, *op. cit.*, p. 209.

Constitution. Article 168 stipulates that every citizen of the Republic of Poland is obliged to bear public burdens and benefits, including taxes, specified in the law²².

Tax jurisdiction can be defined as “a legally defined scope of powers to make independent decisions in tax matters”²³. This general approach requires pointing to its two levels: territorial and material. The territorial aspect of tax jurisdiction determines the territory in which this jurisdiction is exercised. Its range is equivalent to the area of a commune, county/local authority, Voivodeship (region/province) or the entire country. The area of jurisdiction in tax matters of a given public-law entity must be identical to the territorial range of that entity’s operations. Another level is the material aspect of dominion as it determines the actual scope of tax jurisdiction.

The material aspect indicates the competencies and rights of the commune or the state in tax matters. It is the right to impose taxes, the right to introduce taxes at will, the right to collect benefits from taxes (i.e., to take over the proceeds from taxes), the right to broadly understood tax administration, as well as to perform procedural activities (tax proceedings, tax liabilities) related to them. The actual material scope makes it possible to distinguish between full and partial tax jurisdiction²⁴. It is almost exclusively the domain of the state as the primary and independent public law entity. Partial tax control is shared by other public unions operating within a given state and participating in the exercise of power. It is a manifestation of the decentralization of financial power. Thus, the term local tax authority should be understood as the competence and authority to make independent decisions in some tax matters by a given local government unit, the range of which is the same as the territory of this unit. However, under the tax authority, a local government cannot independently impose levies in relation to entities within its jurisdiction to cover its needs. In relation to taxes and fees set by the state, and considered to be local government, it has the right to set their amount in the scope and within the limits of these powers specified by the Act. Determining the amount of local taxes and fees by a local government may only take place through specific elements of the tax technique.

Research methodology

The subject of the study is to present the essence of using the tax authority in communes. To achieve the goal, the resolutions of communes in 60 randomly selected communes in Poland were reviewed. In the case of 30 communes, the interview method was additionally used. Poland is divided into 2,477 communes, including 302 urban communes, 652 urban-rural communes and 1,523 rural communes (Figure 1). The types of communes and urban and rural areas in public statistics are distinguished based on the territorial division of the country using the identifiers of the National Official Register of the Territorial Division of the Country. It is a formal division based solely on an administrative criterion. The specific territory occupied by a given local government, including the commune, was

²² Konstytucja Rzeczypospolitej Polskiej z dnia 2 kwietnia 1997 r. uchwalona przez Zgromadzenie Narodowe w dniu 2 kwietnia 1997 r., przyjęta przez Naród w referendum konstytucyjnym w dniu 25 maja 1997 r., podpisana przez Prezydenta Rzeczypospolitej Polskiej w dniu 16 lipca 1997 r., Dz.U. 1997 nr 78 poz. 483.

²³ E. Tegler: Władztwo podatkowe gmin, Samorządowy Poradnik Budżetowy na 1997, Municipium, Warszawa 1997, p. 375.

²⁴ M. Kosek Wojnar: Transformacja systemu podatkowego, [in:] S. Owsiak (ed). System finansów publicznych w procesie transformacji gospodarki polskiej, PWN, Warszawa 1997, p. 154.

created on the basis of the administrative division of Poland, in which the types of communes are determined. Official statistics distinguish two types of areas: urban (including areas located within the administrative boundaries of cities – i.e., areas of urban communes and cities in urban-rural communes) and rural areas, including areas outside the administrative boundaries of cities, which include the areas of rural communes and rural parts of urban-rural communes²⁵.

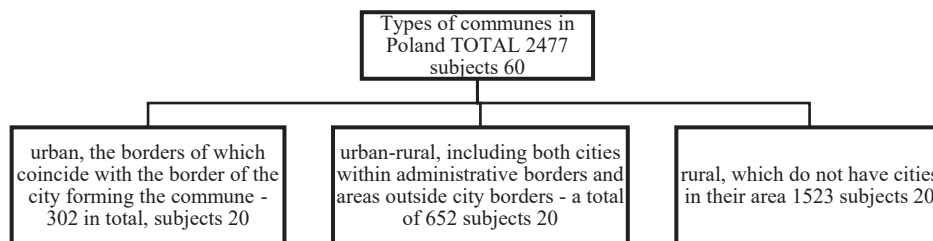


Figure 1. Types of communes in Poland

Sources: based on the Polish administrative division Podział administracyjny Polski, GUS, <https://stat.gov.pl/statystyka-regionalna/jednostki-terytorialne/podzial-administracyjny-polski/> (access: 20.12.2022).

The internal factors differentiating communes include development potential (condition and structure of resources), type of commune (urban, urban-rural, rural), dominant industries, spatial development, demographic situation, and conditions for the development of economic entrepreneurship. The external factors include legal regulations (e.g., affecting the commune's tax revenues), general economic situation, the commune's location in relation to larger urban centers, communication centers, and communication routes. The analysis used information from 20 urban communes, 20 urban-rural communes, and 20 rural communes. The analysis of the implementation of tax governance in communes related to local taxes (with taxes as compulsory and, at the same time, non-returnable cash benefits constitute the main source of financing public tasks). Income, apart from financing current operations, also enables the creation of specific policies by local authorities²⁶. They are a reliable source of financing for the directions of commune development adopted for implementation (i.e., investment plans and outlays for investment expenditures). The commune's own income are characterized by the possibility of creating their amount and collecting it on their own. Subsidies and subsidies are excluded from this group, and their amount does not depend directly on the commune. The occurrence of local taxes was a natural consequence of the establishment of local government. To simplify it, it can be assumed that local taxes constitute the entire income of local authorities. There is no legal uniform definition of local taxes, but from the point of view of public finance law, they include those taxes with respect to which local government units have tax jurisdiction. The scope of local taxes is listed in the Act on Local Taxes and Fees, which does not close the catalog of these taxes. They also include other benefits, regulated

²⁵ M. Borawska: Obszary wiejskie w statystyce publicznej, *Roczniki Kolegium Analiz Ekonomicznych*, 44/2017, p. 277.

²⁶ K. Surówka: Wpływ źródeł dochodów na kształtowanie poziomu nadwyżki operacyjnej na działalność rozwojową jednostek samorządu terytorialnego, *Finanse Komunalne*, 7-8/2019, p. 51.

by applicable laws, that meet the adopted criteria. The category of local taxes includes real estate tax, tax on means of transport (regulated by the Act on Local Taxes and Fees), agricultural tax, forest tax, income tax paid in the form of a tax card, inheritance and donation tax, and tax on civil law transactions. Concerning taxes, their main function is the fiscal function that allows them to obtain cash. These funds are necessary to cover the expenses related to meeting public needs. The secondary function of taxes relates to the redistribution of income. It allows the budget revenues obtained from taxes to be divided between citizens and public law unions²⁷. In the case of taxes, one can also speak of a third function, which is referred to as the ‘stimulus function’. It is associated with the statement that lowering or increasing tax rates, or introducing tax reliefs or exemptions may trigger desirable economic processes from the viewpoint of citizens and the state. In the area of financial management, it should be noted that the competencies and powers are used to operate in the field of tax authorities. The provision of the Constitution of the Republic of Poland (Art. 168) gave communes the right to the so-called “tribute power” in modeling tribute loads²⁸. It should be noted that the limits of tax jurisdiction result from Art. 217 of the Polish Constitution. According to its provisions, the imposition of taxes, other public levies, determination of entities, objects of taxation and tax rates – as well as the rules for granting reliefs, redemptions and categories of exempt entities – are reserved for the Act. This means that the Act regulates all the basic structural elements of the tax. The powers of communes to co-decide on the legal structure of taxes are small. Municipalities can only reduce them. This means that communes have statutory powers to regulate certain structural elements of the tax by way of a resolution. These powers relate to²⁹ shaping tax rates – determining and differentiating their amounts and shaping objective exemptions (subjective exemptions are reserved for the Act). The possibility of regulation applies only to taxes and fees paid by the municipal tax authorities. This applies to real estate tax³⁰, agricultural tax³¹, forest tax³² and tax on means of transport³³, as well as market³⁴, local³⁵, spa³⁶, dog ownership³⁷, advertising, operating³⁸ and fiscal charges³⁹, and other fees regulated by the provisions of other acts. Collection of all fees under the Act on Local Taxes and Fees (market, local, health resort, dog ownership, and advertising fees) depends on the decision of the commune council because they are optional. The communes do not have any powers in the field of taxes, which are collected by the tax authorities. Thus,

²⁷ W. Grześkiewicz (ed.): *Finanse Publiczne z elementami prawa podatkowego*, Difin, Warszawa 2014, p. 109

²⁸ R. Przygodzka: *Władztwo podatkowe a stabilność finansowa, Nierówności Społeczne a Wzrost Gospodarczy* 40, 4/2014, p. 334.

²⁹ L. Etel: *Czego mogą dotyczyć uchwały podatkowe jednostek samorządu terytorialnego*, [in:] C. Kosikowski (ed.), *Finanse samorządowe*, Dom Wydawniczy ABC, Warszawa 2006, p. 125-127.

³⁰ Ustawa z dnia 12 stycznia 1991 r. o podatkach i opłatach lokalnych, tekst jednolity, Dz.U. z 2022 r., poz. 1452.

³¹ Ustawa z dnia 15 listopada 1984 r. o podatku rolnym, Dz.U. z 2020 r., poz. 333.

³² Ustawa z dnia 30 października 2002 r. o podatku leśnym, Dz.U. z 2019 r., poz. 888.

³³ Ustawa z dnia 12 stycznia 1991 r. o podatkach i opłatach lokalnych, tekst jednolity Dz.U. z 2022 r., poz. 1452.

³⁴ *Ibidem*.

³⁵ *Ibidem*.

³⁶ *Ibidem*.

³⁷ *Ibidem*.

³⁸ Ustawa z dnia 9 czerwca 2011 r. – Prawo geologiczne i górnicze, Dz.U. z 2019 r., poz. 868.

³⁹ Ustawa z dnia 16 listopada 2006 r. o opłacie skarbowej, Dz.U. z 2022 r., poz. 2142.

conducting one's own tax policy is implemented to a very limited extent. It allows you to carry out activities of an individual, not systemic nature⁴⁰. The shaping of tax rates may be carried out as follows: directly – it consists of determining and differentiating tax rates (real estate tax, tax on means of transport and all the above-mentioned fees); indirectly – it consists of modifying the tax base (lowering the purchase price of rye and wood adopted for the calculation of agricultural and forest tax, respectively). Establishing and differentiating rates is limited by law. The legislator included in the Act on Local Taxes and Fees information on rates concerning real estate tax (Art. 5), tax on means of transport (Art. 10), and fees (Art. 19). The upper limits of tax rates are announced annually by the minister responsible for finance. The limits of these commune authorities in their tax resolutions may not exceed. In the case of the agricultural and forestry tax, the President of the Central Statistical Office defines the upper limit of the prices of raw materials (rye and wood) in the form of an annual announcement. Tax policy concerning tax rates is subject to further restrictions. You cannot set tax rates at 0 PLN. It is also not possible for commune authorities to introduce apparent rates (i.e., rates close to 0 PLN). In the tax on means of transport, the legislator also introduced minimum rates, so municipalities adopt their rates from a certain range. Limited action has been granted to municipalities in terms of differentiating tax rates due to the subject of taxation. The procedure of determining the rates requires the observance of certain rules⁴¹. The introduction of new rates should be made prior to the submission of the draft budget to the commune council. This will allow the adoption of a financial plan consistent with the adopted changes in tax revenues. The second important rule is to pursue a clear and transparent tax policy (i.e., to introduce permanent rules for shaping tax rates). Among them, the following are distinguished: the rate of growth of local rates (along with the increase in the upper limits of rates announced by the Minister of Finance at least once every three years), the reduction of the ratio of adopted rates to the level of 90% of the maximum rates, and changes in local rates (only in those years when the cumulative rate of changes in upper rates limits on tax rates exceeds 5%). One should not introduce abrupt changes and artificially maintain their constant growth.

Results

As a result of the analysis carried out in selected municipalities in the period 2019-2021, the power to make decisions in the field of determining the amount of taxes and local fees and the application of tax preferences was exercised in all municipalities. It can be concluded that the powers of municipalities in the field of tax administration are systematically used. These activities include shaping tax rates or the tax base, introducing objective exemptions and giving tax reliefs. The commune authorities also used redemptions and allow paying in installments. These activities [of the communes] were an element of building the tax policy, which is used as an instrument to stimulate the socio-economic development of the commune. These activities also had a specific effect on the financial stability

⁴⁰ R.I. Dziemianowicz, A. Kargol-Wasiluk, A. Bołtromiuk: Samodzielność finansowa gmin w Polsce w kontekście koncepcji *good governance*, Optimum. Economic Studies (94), 4/2018, p. 210.

⁴¹ M. Kogut-Jaworska: Instrumenty interwencjonizmu lokalnego w stymulowaniu rozwoju gospodarczego, CeDeWu, Warszawa 2008, p. 96-97.

of the commune; they had an impact on the income level. These activities were highly diversified in the analyzed communes.

In 2019, the possibility of shaping tax rates, giving tax reliefs and exemptions, as well as shaping the terms of payment of taxes for agricultural, forest, real estate, and means of transport was much higher than in 2020 and 2021 in all types of municipalities. Urban and urban-rural communes reduced rates more often (80% in the study group) than rural communes (75%). Redemptions and dismissals were used by about half of all communes.

In 2020 these measures were used in 90% of the surveyed municipal districts, most often in the field of real estate tax. And in rural districts the agricultural and forestry tax were used in all analyzed municipalities. However, redemptions and layoffs were implemented less frequently and aligned with the desired objectives.

In 2021, in principle, real estate tax was implemented at the maximum amount in all municipalities. Rural communes also used their powers not to reduce rates. 95% of all municipalities limited redemptions and layoffs (Table 1).

Table 1. The structure of the use of instruments in the surveyed communes in 2019-2021

Type:	A			B			C		
	2019	2020	2021	2019	2020	2021	2019	2020	2021
Lowering the top tax rates									
property tax	80	90	35	75	70	35	75	80	20
tax on means of transport	75	70	70	65	60	55	70	70	65
agricultural tax	0	0	0	0	5	5	15	10	5
forest tax	0	0	0	0	5	5	10	10	5
Discounts and exemptions									
property tax	75	70	60	60	55	45	65	50	45
tax on means of transport	60	65	50	50	45	45	55	50	40
agricultural tax	0	0	0	5	10	5	20	15	15
forest tax	0	0	0	5	5	5	15	10	10
Write-off of tax arrears									
property tax	45	35	15	45	30	10	50	35	10
tax on means of transport	35	30	20	30	30	20	45	35	30
agricultural tax	0	0	0	10	10	5	20	20	5
forest tax	0	0	0	5	5	5	10	10	5
Payments in installments and deferrals									
property tax	10	10	5	20	15	15	20	10	10
tax on means of transport	10	10	5	15	10	10	15	15	10
agricultural tax	0	0	0	5	5	5	10	10	10
forest tax	0	0	0	0	0	5	15	10	5

Analyzed communes: A – municipal commune; B – urban-rural commune; C – rural commune.

Sources: own study based on research.

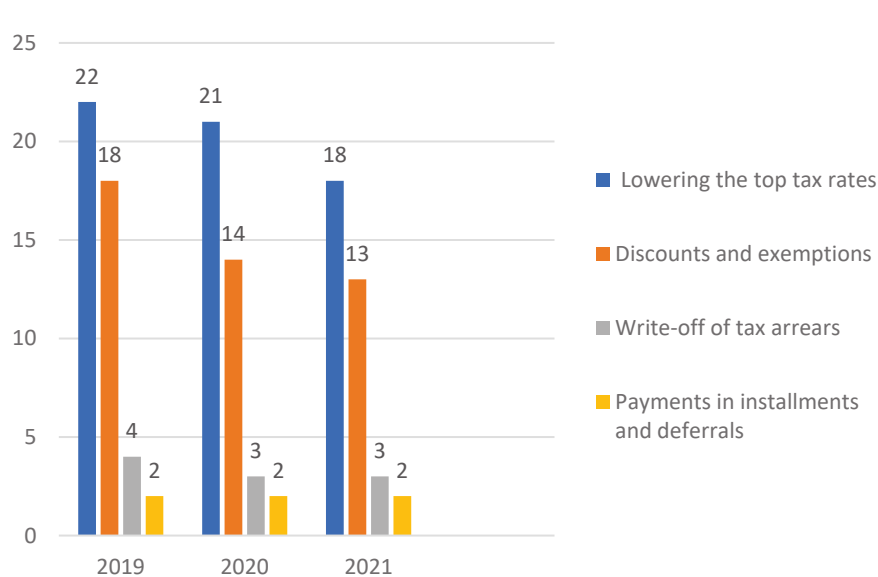


Figure 2. Share of lost tax revenues in the surveyed communes in years 2019-2021

Sources: own calculation based on the analysis of data from commune budgets

An analysis of the lost revenue of municipalities in the period under review shows less revenue from tax revenues. Due to the reduction of upper tax rates in all local taxes, it is about 22-18% less revenue with a decreasing trend. Another group that generates a significant level of lost revenue is the use of abatements and exemptions. Across all municipalities surveyed, this is about 17%, most often within real estate tax. To a lesser extent, municipalities make use of the power to write off tax arrears (3% of lost revenue) and to spread or defer payment in installments (2% of lost revenue) (Figure 2). The consequence of municipalities exercising tax authority is the loss of some revenue. During the period under review, municipalities deliberately gave up part of their tax revenues. The highest impact on the reduction of municipal tax revenues was the reduction of upper tax rates. To the greatest extent, both in value and relative terms, the loss of revenue from tax authority occurs in rural municipalities, which are often in financial distress and receive budget revenues mainly from subsidies and grants. During the period under review, they gave up part of their own revenues from local taxes. The financial stability of municipalities is mainly determined by their own revenues. According to respondents, reducing revenues through tax authority threatens financial stability.

The use of lower tax rates and the introduction of exemptions, concessions and amortizations reduce the budgetary revenues of municipalities. Thus, the effects of applying tax jurisdiction can be described as lost income. In 2020 and 2021, there was an unplanned increase in expenditure and a decrease in incomes in municipalities due to the effects of the COVID-19 pandemic. Municipalities face a huge problem, which is a significant decrease in their own income mainly income from PIT, CIT, real estate taxes, as well as income from rents. On the other hand, every day, they struggle with the problems of

providing the residents with the required safety and incur high costs associated with it. The negative consequences associated with it are the inability to carry out already started tasks or failure to perform tasks at the current or planned level. The reason lies in the lack of financial resources. Moreover, communes, taking advantage of their powers in the field of tax authority, develop state aid programs which they try to influence potential investors. From the information obtained through the interview, all surveyed entities indicated the risk of a decrease in income and tax changes, and – thus – a legal and financial risk. They indicated it as the reason for limiting tax stimulation.

In the respondents' opinion, tax governance is an important factor influencing the financial policy of municipalities, but the use of these methods in practice in the analyzed period was very limited. The analyses show that the communes perceive the risk of legal and financial changes and mostly do not use the methods of exercising power due to the limited income and the increase in expenses related to the post-pandemic crisis. Decisions related to the tax policy formed a logical catalog of activities related to the commune's development strategy and the entities' current financial policy.

Conclusions

Certain conclusions can be drawn from the considerations presented in the study. Municipalities are aware of their competencies and public obligations. The realization of the commune's self-government is evidenced by the fact that the local community can decide on social and economic matters at the local level. Management in a commune is treated as a set of decision-making processes that create appropriate conditions for the implementation of the adopted goals and tasks and fulfilling needs. The basic one is the optimal use of the resources at hand to implement the goals and directions of activities set in the commune.

Financing is an extremely complex task due to growing and changing social needs. It is a great management challenge and the ability of decision-makers to assess risk. In terms of the implemented tax policy, the possibility of shaping tax rates, giving tax reliefs and exemptions, and shaping the terms of payment applies only to taxes: agricultural, forest, real estate, and means of transport. The most frequently implemented activity of communes was the reduction of the upper tax rates. Although in the short term, giving up part of the income may limit the possibility of the functioning or even the need to obtain additional funds in the commune in the long term, there may be a positive impact on taxpayers. However, it could be a long-term effect. In view of the weak financial situation, the decisions of the long-term effect are not implemented as activities focused on obtaining the largest possible tax revenues and implementing maximum tax rates. There is also a certain risk associated with the local tax authorities, which is the possibility of reducing budget revenues. It consists of lowering local authorities' tax rates and applying a wide range of tax reliefs, amortizations, and tax exemptions. Local governments also have greater problems with the effectiveness of tax enforcement. The effectiveness of the applied solutions in local tax policy is determined not only by the fact of using a given instrument, but also by its selection and form. The key to effective stimulation by tax sovereignty is not the mere application of preferences, but the transparency and stability of the tax system.

References

- Bandarzewski K., Chmielnicki P.: Prawo samorządu terytorialnego w Polsce, Beck, Warszawa 2012.
- Boć J.: Nauka administracji Podręcznik Uniwersytecki, Kolonia Limited, Warszawa 2013.
- Borawska M.: Obszary wiejskie w statystyce publicznej, Roczniki Kolegium Analiz Ekonomicznych, Szkoła Główna Handlowa, 44/2017, p. 275-285.
- Brzozowska K., Kogut-Jaworska M.: Władztwo podatkowe w ocenie samodzielności dochodowej gmin w Polsce, Annales Universitatis Mariae Curie-Skłodowska Lublin–Polonia, Sectio H, L. 1/2016, p. 327-337.
- Chochowski K.: Zadania samorządu gminnego w Polsce w sferze bezpieczeństwa i porządku publicznego, [in:] M. Stec, S. Płażek (eds), Charakter i konstrukcja zadań samorządu terytorialnego, Wolters Kluwer, Warszawa 2017, p. 112-136.
- Dziemianowicz R.I., Kargol-Wasiluk A., Bołtromiuk A.: Samodzielność finansowa gmin w Polsce w kontekście koncepcji good governance, Optimum. Economic Studies (94), 4/2018, p. 204-219.
- Etel L., Dowgier R., Liszewski G., Pahl B.: Podatki i opłaty lokalne. Komentarz, Wolters Kluwer, Warszawa 2020.
- Etel L.: Czego mogą dotyczyć uchwały podatkowe jednostek samorządu terytorialnego, [in:] C. Kosikowski (ed), Finanse samorządowe, Dom Wydawniczy ABC, Warszawa 2006, p. 125-127.
- Europejska Karta Samorządu Lokalnego, sporządzona w Strasburgu dnia 15 października 1985 r., Dz.U. z 1994 r., nr 124, poz. 607.
- Grześkiewicz W. (ed.): Finanse Publiczne z elementami prawa podatkowego, Difin, Warszawa 2014.
- Hałat-Majka J.: Władza stanowiąca a zrównoważony rozwój samorządu terytorialnego, [in:] S. Stachera Włodarczyk, S. Cichoń (eds), Zrównoważony rozwój w zarządzaniu, Wydawnictwo Wydziału Zarządzania Politechniki Częstochowskiej, Częstochowa 2018, p. 22-42.
- Kawecka A., Zalas G.: Gmina jako jednostka samorządu terytorialnego podmiotem odpowiedzialnym za realizację zadań z pomocy społecznej na przykładzie domów pomocy społecznej, [in:] M. Stec, K. Malysa-Sulińska (eds), Podmiotowość samorządu terytorialnego a zakres jego zadań i kompetencji, Wolters Kluwer, Warszawa 2020, p. 173-191.
- Kogut-Jaworska M.: Instrumenty interwencjonizmu lokalnego w stymulowaniu rozwoju gospodarczego, CeDeWu, Warszawa 2008.
- Konstytucja Rzeczypospolitej Polskiej z dnia 2 kwietnia 1997 r. uchwalona przez Zgromadzenie Narodowe w dniu 2 kwietnia 1997 r., przyjęta przez Naród w referendum konstytucyjnym w dniu 25 maja 1997 r., podpisana przez Prezydenta Rzeczypospolitej Polskiej w dniu 16 lipca 1997 r., Dz.U. z 1997 r., nr 78, poz. 483.
- Kosek Wojnar M.: Transformacja systemu podatkowego, [in:] S. Owsiak (ed), System finansów publicznych w procesie transformacji gospodarki polskiej, PWN, Warszawa 1997, p. 152-158.
- Mańczyk P.: Władztwo finansowe jednostek samorządu terytorialnego w kontekście uprawnień gminy, Ekonomiczne Problemy Usług 4/2018, p. 207-219.
- Marks-Bielska R., Kozajda J.: Gospodarowanie budżetem gminy w kontekście funkcjonowania gospodarki lokalnej, Humanities and Social Sciences 23, 25 (3/2018), p. 199-211.
- Mączyński M.: Reforma ustroju samorządu terytorialnego: uwarunkowania, możliwości i konsekwencje zwiększenia samodzielności JST, MSAP, Kraków 2014.
- Miemiec W.: Europejska Karta Samorządu Terytorialnego jako zespół gwarancji zabezpieczających samodzielność finansową gmin – wybrane zagadnienia teoretyczno-prawne, Samorząd Terytorialny, 10/1997, p. 54-63.
- Pachuca-Smulska B.: Samodzielność jednostek samorządu terytorialnego na przykładzie działań powiatowego (miejskiego) rzecznika konsumentów. Zarządzanie publiczne, Funkcjonowanie

- jednostek samorządu terytorialnego, w aspekcie wielowymiarowym, *Przedsiębiorczość i Zarządzanie*, 8, 2, 1/2017, p. 135-147.
- Podział administracyjny Polski, GUS, <https://stat.gov.pl/statystyka-regionalna/jednostki-terytorialne/podzial-administracyjny-polski/> (access: 20.12.2022).
- Poniatowicz M., Determinanty autonomii dochodowej samorządu terytorialnego w Polsce, *Nauki o Finansach*, 1 (22)/2015, p. 11-30.
- Przygodzka R.: Władztwo podatkowe a stabilność finansowa, *Nierówności Społeczne a Wzrost Gospodarczy* 40, 4/2014, p. 334-344.
- Ruśkowski E., Salachna J.M.: *Finanse lokalne po akcesji*, Oficyna Wydawnicza Wolter Kluwer Business, Warszawa 2007.
- Satoła Ł., Standar A., Kozera A.: Financial Autonomy of Local Government Units: Evidence from Polish Rural Municipalities, *Lex Localis-Journal, Of Local Self-Government*, 17, 2/2019, p. 321-342.
- Surówka K.: Wpływ źródeł dochodów na kształtowanie poziomu nadwyżki operacyjnej na działalność rozwojową jednostek samorządu terytorialnego, *Finanse Komunalne*, 7-8/2019, p. 50-59.
- Tegler E.: *Władztwo podatkowe gmin*, w *Samorządowy Poradnik Budżetowy na 1997*, Municipium, Warszawa 1997.
- Uryszek T.: Samodzielność finansowa jednostek samorządu terytorialnego. Polska na tle wybranych krajów Unii Europejskiej, *Finanse Komunalne*, 12/2015, p. 5-15.
- Ustawa z dnia 12 stycznia 1991 r. o podatkach i opłatach lokalnych, Dz.U. z 2022 r., poz. 1452.
- Ustawa z dnia 13 listopada 2003 o dochodach jednostek samorządu terytorialnego, Dz. U. z 2021 r. poz. 1672 as amand.
- Ustawa z dnia 15 listopada 1984 r. o podatku rolnym, Dz.U. z 2020 r., poz. 333.
- Ustawa z dnia 16 listopada 2006 r. o opłacie skarbowej, Dz.U. z 2022 r., poz. 2142.
- Ustawa z dnia 30 października 2002 r. o podatku leśnym, Dz.U. z 2019 r., poz. 888.
- Ustawa z dnia 9 czerwca 2011 r. – Prawo geologiczne i górnicze, Dz.U. z 2019 r., poz. 868.
- Wołowicz T.: Konkurencyjność podatkowa gminy w kontekście posiadania lokalnej strategii podatkowej, *Samorząd Terytorialny* 7-8/2020.

Władztwo podatkowe gmin w Polsce oraz metody jego realizacji

Streszczenie

Celem opracowania było ustalenie możliwości wykorzystanie metod realizacji władztwa podatkowego gmin w zakresie podatków lokalnych oraz ocena znaczenia wykorzystania władztwa dla planowania finansowego gminy w warunkach kryzysu finansów. Dla realizacji celu analizie poddano wybranych losowo 60 gmin o zróżnicowanym charakterze. Zastosowano następujące metody: analizę piśmiennictwa, analizę aktów prawnych lokalnych oraz wywiad pogłębiony i opracowania statystyczne. Do analizy przyjęto dane z lat 2019-2021. Na podstawie przeanalizowanego materiału ustalono, że występuje zróżnicowany zakres wykorzystywania metod władztwa podatkowego w gminach. Władztwo podatkowe stanowi ważny czynnik wpływający na politykę finansową gmin w opinii respondentów, ale wykorzystywanie tych metod w praktyce w badanym okresie było bardzo ograniczone. Z przeprowadzonych analiz wynika, że gminy dostrzegają ryzyko zmian prawnych i finansowych i w większości nie wykorzystują metod realizacji władztwa z uwagi na ograniczone dochody i wzrost wydatków związanych z kryzysem po pandemii.

Słowa kluczowe: lokalne podatki, władztwo podatkowe, gmina

Kody JEL: H2, H3

Information about the authors:

Dorota Burzyńska – University of Łódź
Department of Finance and Accounting of SMEs
POW St. 3/5 90-255 ŁÓDŹ
e-mail: dorota.burzynska@uni.lodz.pl
<https://orcid.org/0000-0002-0973-2115>