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## Articles

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**Jacek Jaworski**[1]

# AN ADVERTISING FEE IN A SYSTEM OF LOCAL FEES

An advertising fee was introduced to the system of fees and local taxes, becoming a financial tool to shape the space and increase the budget revenues of local government units in Poland. This article is intended to describe the fee structure itself, determine its subjective and objective scope and discuss exemptions from advertising fees. Given that the text is a follow–up to an academic conference attended also by local government representatives, particular attention was paid to the practical evaluation of the risk and difficulties communes may face during the collection of advertising fees.

**JEL Classification Codes: M3, H71.**

**Keywords:** Advertising fee, Local fees.

## Introduction

Local fees constitute a source of budget revenues and as such they have a real influence on the financial standing of local government units. The introduction of a new fee, called an advertising fee, to a system of local fees, seems desirable, at least with regard to the public finance. Enlarging the catalogue of fees by the legislator must be perceived as positive by members of local governments.

It is disputable how efficiently and effectively a local government may impose and collect fees, or within a broader context, how far it may go in its activities to raise money. It depends on the concept of the state and economy, system of fees and duties, and, finally, also on the financial standing of lo-

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cal governments, including, in particular, a catalogue of tasks entrusted to them, concerning the participation in commonly collected public duties, going towards the state budget. This article concerns the possibility of imposing advertising fees under the Polish law, so when it refers to local government units, it refers only to the Polish local government units.

The amounts, which are to go towards local government budgets, must be paid by someone. In this context, the introduction of local advertising fees may be perceived not only as an element contributing to the increase of budget revenues, but mainly as a burden to budgets of advertisers. Advertising costs presently constitute one of the basic elements of fixed costs related to the reaching of a target recipient of a product or service. Such costs may be considered an investment, since it is expected that advertising will be a „leverage of trade". It is necessary to bear advertising costs for marketing to be effective as an element of running one's business as a means of communication between a consumer and a producer (Orżewski, 2012, p. 13).

Therefore, since advertising is indispensable and the advertising market seems to have considerable resources, then, from this perspective, advertising fees may be perceived as an attempt of a local government to use those resources.

The indicated complexity of the problem prevents explicit evaluation of the introduction of an advertising fee. In order to evaluate the scale of this phenomenon and its effects, not only law, but also statistics and economy should be considered. Nonetheless, advertising fees may be deemed a financial tool aimed at achieving statutory goals, other than the economic ones. It seems that such a goal, with regard to an advertising fee, is the landscape conservation within the framework of sustainable development and maintenance of spatial order. These are, indisputably, common (public) values, which may explain why the legislator chose to introduce the institution of advertising fees in the public law sphere.

Local fees, present in the Polish system, are provided for by the Act of 12 January 1991 on Taxes and Local Fees (Act on Taxes and Local Fees, 1991). The local fees include:

a) a market fee (Act on Taxes and Local Fees, 1991, Articles 15–16), which is collected from natural persons, legal persons and organisational units without legal personality, selling goods on markets;

b) a dog fee, which is collected from natural persons who own dogs, including statutory exemptions[2];
c) a tourist fee (Act on Taxes and Local Fees, 1991, Article 17) (a so–called climate fee), which is collected for each commenced day of stay, from natural persons, staying for more than 24 hours, for tourist, holiday, or training purposes, in towns which offer favourable climatic conditions, landscape value, and conditions enabling people to stay there for such purposes and in towns located in the areas, which have been granted the status of health–resort protection areas, under the provisions of the Act of 28 July 2005 on Health Resort Medical Care, Health Resorts, Health Resort Protection Areas and Health Resort Communes;
d) a health resort fee[3], which is collected for each commenced day of stay, from natural persons, staying for health, tourist, holiday, or training purposes in towns located in the areas, which have been granted the status of a health resort, under the provisions of the Act of 28 July 2005 on Health Resort Medical Care, Health Resorts, Health Resort Protection Areas and Health Resort Communes;
e) an advertising fee, which is collected for the installation of billboards.

The above list demonstrates that only the market fee, in addition to the advertising fee, may be directed also at entrepreneurs. It seems, therefore, that the communes which have a large potential, and, in particular, possess communication routes, may count on the increase of their revenues for the collection of those fees[4].

The collection of an advertising fee is the final element of the whole process, which may succeed only where all statutory prerequisites are met. First,

[2] This fee is not collected from: staff of diplomatic missions and consular posts, persons with high degree of disability, within the meaning of the Act of 27 August 1997 on Vocational and Social Rehabilitation and Employment of Persons with Disabilities – for owning one dog; disabled persons, within the meaning of the Act of 27 August 1997 on Vocational and Social Rehabilitation and Employment of Persons with Disabilities – for owning an assistance dog; persons over 65 years of age running households on their own – for owning one dog; payers of agricultural tax on farm holdings – for owning not more than two dogs (Act on Taxes and Local Fees, 1991, Articles 18a and 19).

[3] A health resort fee is also a local fee and may be called a climate fee. The introduction of health resort fees excludes the collection of local fees, referred to in item c).

[4] Since the legislator explicitly uses the term „fee", it seems justified not to use the term „tax" when referring to it. At the same time, it is beyond doubt that this fee has a fiscal nature. The classification of an advertising fee as a tax or fee is thoroughly discussed by Goleń in his commentary to Article 4 (Goleń, 2016, p. 68).

a fee must be determined, and afterwards all subjective and objective requirements must be established for it to be deemed legitimate. At the same time, the legislator introduced a number of exemptions from the fee, as in the case of other local fees. A common denominator are the principles regulating the adoption of resolutions, and the competence of a municipal council to pass resolutions in this regard.

Pursuant to Article 17a(1) of the Act on Taxes and Local Fees, the municipal council may introduce an advertising fee on billboards or advertising devices. Thus, billboards and advertising devices determine the objective scope necessary to establish and collect a fee.

In accordance with Article 1(a)(3a) of the Act on Taxes and Local Fees, the terms used in the Act, such as: advertising, a billboard, an advertising device, a sign, mean, respectively, advertising, a billboard, an advertising device, a sign, within the meaning of the Act of 27 March 2003 on Spatial Planning and Management (Act on Spatial Planning and Management, 2003)[5].

Advertising means propagating, in any visual form, information to promote persons, companies, goods, services, undertaking or social movements. This is a legal definition, although in the legal literature one may find a number of definitions of advertising[6] and classifications made in relation to the criterion of legal regulation. But the propagation requires a „carrier" to be made public (to be expressed externally). A billboard or, to be more precise, its flat part (the board), which, together with construction elements and mounting elements, makes up a billboard, may be such a carrier. If, however, a given object, which is used to display an advertisement, has no flat board, then, within the meaning of the Act on Spatial Planning and Management, it becomes an advertising device. Both objects should be used for the display of products, services, etc., although they do not have to be displayed at a given time for the object to be called a billboard or an advertising device. In both cases the legislator reserved that billboards and advertising devices are not only objects on which advertising is displayed, but objects which are to serve this purpose.

[5] Compare also Article 2(16a)–(16d) of the Act on Spatial Planning and Management.

[6] In the legal literature there were different definitions of advertising. Thus, advertising is the expression which stimulates the increase of the sale of goods or services (Wiszniewska, Skubisz, 1992). Advertising is defined very broadly as the attempts aimed at popularization of or arousing interest in goods or services (Jaworska–Dębska, 1993). Whereas, Rączka, when defining advertising, draws attention to the need to distinguish legal notions such as: commercial information or offers within the meaning of the civil code (Rączka, 2012, pp. 38–42).

Thus, advertising and its very essence, based on the concept of display, do not constitute a *sine qua non* condition in the definition of a billboard or an advertising device. For example, billboards include, in particular: advertising banners, advertisements placed on building windows, scaffolding, fences or construction site equipment. The examples presented *expressis verbis* are to prevent the attempts to evade the Act, where advertisements are placed on objects intended for other purposes. Thus, if a window pane is considered a board, then a window frame with all mounting elements constitutes, within the meaning of the legal definition referred to, a whole billboard. This is a definition within the meaning of tax regulations. Similarly, construction safety nets may constitute a board, whereas scaffolding, on which they are spread, are construction elements making up a billboard within the meaning of tax regulations.

Also those boards, on which advertisements are not displayed, also constitute billboards. All remains of billboards, i.e. bare structures and mounting elements, constituting only the framework and construction skeletons if they do not have a flat surface used to display advertisements, qualify as advertising devices. The introduction of an advertising fee for the possession of „dead billboards", should be perceived as positive, since it will force property owners to disassemble them in order to avoid paying the fee. Consequently, it may lead to clearing the space of empty and old boards, which spoil the spatial aesthetics. It seems that an empty billboard or an old board or structure do not have any aesthetic and informative value, which puts them in a worse light than an active board, on which an advertisement is displayed. (Obviously, it is difficult to make and justify certain structures based on subjective features related to aesthetic sensitivity; however, it seems justified to assume that, taking into account two situations, where the first one consists in to installing empty and ruined billboards by the side of the road, whereas the second one in installing active billboards, the latter is better, because advertisers want to reach the recipient, while maintaining positive visual feelings, also with regard to the aesthetics, forcing the owners of such carriers to maintain adequate standards.

The concept of a sign should also be noted, since it is a specific type of a billboard or an advertising device, for which no advertising fee is collected. It contains information on the activity conducted on the property, on which such a billboard or an advertising device is installed. It seems that the introduction of the exemption referred to effectively decreased the objective scope of the application of advertising fees. Owing to such a wide definition of a sign, in many cases it is impossible to effectively collect an advertising

fee. Irrespective of whether the aim of the legislator was to improve the spatial aesthetics or enable the collection of advertising fees in order to increase the revenues of units, none of those aims will be achieved, due to the legal definition of a sign. However, a sign may constitute an advertisement, and the marring of walls, windows or shop windows by the names of chain stores and other goods distribution outlets may be exempted from the fee because an advertisement is displayed in the form of the sign.

In the case of freestanding and large surface buildings problematic are also pylons, which exert a lot of influence on the landscape and, which, literally speaking, fulfil the basic characteristics of a sign. It should be also remembered that a logo or a sign, installed on a pylon, may be also installed on the roof of a building if there is no space for installing a pole, and the building structure makes it possible for it to be installed there. If a seat of a given entrepreneur is located in the building, the company name displayed in a graphic form may be considered a sign. Then it constitutes a specific type of a sign, since the manner of display, including the lighting, makes it to be more than clearly noticed within the space (e.g. from a certain perspective it is seen as towering above a city, square, or alley). By introducing the exemption concerning a sign, the legislator deprived itself of the possibility of generating revenues from advertising fees.

Furthermore, an advertising fee is not collected for signs, as long as they comply with the terms and conditions regarding the installation of small architecture structures, billboards, advertising boards and fences. To the contrary, the legislator allows the collection of an advertising fee if a sign is installed in contradiction to the applicable conditions. Firstly, it should be established how to assess a situation, how to assess if a sign has been installed properly, where such conditions are missing or, where the conditions determined in a spatial development plan are very general. Should one assume the principle of construction freedom, based on constitutionally protected property right, then all doubts in this regard should be considered to the benefit of an owner, that is as the exemption from the payment. It cannot be also ruled out that, in relation to signs, a municipal council will be forced to amend spatial development plans in this regard, which may pose a risk of an obligation to pay a rezoning fee.

The remaining exceptions related to exemptions from advertising fees are provided for in Article 17a(5)(1) of the Act on Taxes and Local Fees. Pursuant to the above–mentioned provision, an advertising fee is not collected if billboards or advertising devices are not visible from areas available to the public. In particular, this provision may be related to advertisements displayed in

enclosed areas, cooperative housing estates, etc. Furthermore, it seems that this provision cannot be understood literally (that it is about the visibility of the device itself), but it should be interpreted broadly in such a way that it is about the visibility of the content, which this device may display.

Moreover, an advertising fee is not collected if an advertising device or a billboard is used solely for dissemination of religious information, related to the activities of churches or religious associations, if a billboard or an advertising device is located within the areas used as places of worship and religious activity as well as cemeteries or places commemorating persons, institutions or events. Permanent commemoration of persons or institutions, as provided for by Article 17(a)(5)(4)(a) of the Act on Taxes and Local Fees, should be indicated by the fact that a certain object is not used in any manner to present other content, encouraging people to purchase a product or use a service. From the perspective of the content displayed it is not a billboard, since the essence of the message has no commercial context. Therefore, if a billboard only for certain periods, e.g. for 2 months when a given institution is organizing a historical event, is used to commemorate the anniversary of a historical event, then an advertising fee should be collected throughout the whole period. It is obvious that it may be difficult to draw a line between permanency and periodicity difficult, as the notion of permanency has not been defined precisely.

Nonetheless, determination by an authority when, at what time of the year, and for what purposes, a given billboard was used, including determination in which periods it advertised commercial products, and in which – events, seems to be a task, the costs of which may exceed the amount of advertising fees. Thus, a permanent display is a display which is focused only on one object, subject to exemption. A municipal council may introduce other exemptions of an objective nature. This is directly provided for by Article 19(3) of the Act on Taxes and Local Fees.

The subjective scope comprises 4 categories of persons bound to pay advertising fees. They include: an owner (a co–owner), a perpetual usufructuary (which excludes owner's liability, and the owner is, after all, the state treasury or a local government unit), an owner–like possessor of state and private properties, and a dependent possessor of state properties. (It should be noted that Article 17(3)(4) of the Act on Taxes and Local Fees provides a basis for distinguishing the situation of a dependent possessor of property, structures or their parts, which constitute state and private property).

A fee is collected from an „administrator" (who is not always an owner) of property, on which a billboard or an advertising device, used for display

of promoting materials, has been installed, irrespective of whether they are displayed or not. In the literature it is argued that in the case of advertising displayed by an owner–like possessor, the owner is not a tax payer and there is no joint and several fiscal liability in this regard (Goleń, 2016, p. 78; Judgment of the Constitutional Tribunal, 1995). This issue seems to be more complex at least because possession is a state, which may cease quite quickly, and the advertisement may remain in place, with the owner still showing no interest in the property.

It may be particularly difficult to determine a fee in the case of unconventional billboards and advertising devices. The fee amount is a total of the value of its constant part and variable part, the amounts of which are determined by a resolution, under Article 19 of the Act on Taxes and Local Fees. The provision referred to constitutes a basis for adopting a resolution for all types of local fees. The constant part is a flat fee, regardless of the surface area of a billboard or an advertising device, used for displaying advertisements. The variable part depends on the size of the surface area of a billboard or an advertising device, used for displaying advertisements.

As has been mentioned before, billboards, where the surface area of an advertisement is not standard, due to protruding display elements, may pose difficulties. Technological possibilities and creativity of marketing teams give rise to the assumption that not in every case the surface area will be calculated by simply multiplying the length of the sides inscribed in the rectangle of a billboard. Billboards may be equipped, for example, with lamps emitting a beam of light, not directed at the recipient, which correspond graphically to the advertisement, thus visually expanding the surface area of the display. Other elements, such as inflatable balls, balloons, flags, etc., which will appear at billboards only periodically, or pulsating elements, may also be used. Such elements do not have to be attached to the billboard itself; furthermore, they do not present any text content themselves. Nonetheless, in combination with the text displayed on the billboard they may constitute a single composition[7].

It ensues from Article 17b(4) of the Act on Taxes and Local Fees that irregular surface areas are calculated by „encompassing" display surface areas by a rectangular prism, whose surface constitutes the basis for making

[7] For example, an advertisement of a new device, which may be purchased at a discount price on the anniversary of a store chain, placed on a billboard, may be accompanied by balloons attached to the billboard structure. In such a case, the protruding advertisement gains a new, larger dimension.

calculations. The fee depends on the lateral surface area of a rectangular prism inscribed in the advertising device (Stelmaszczyk, 2016).

The fact that the legislator made a reservation that fees may be collected only in the areas, where terms and conditions regarding installation of small architecture structures are applicable, does not mean that, without applying those terms and conditions, a resolution on advertising fees within a commune cannot be adopted. A resolution of a municipal council, determining the manner of making declarations, fee rates, type of potential exemptions, deadlines for and manner of paying advertising fees, may be applicable within one commune, also where there are no terms and conditions regulating the installation of advertising devices. In this regard, communes should prepare possible adjustable changes, directed at harmonisation of installation standards within the area of advertising devices, but such changes may be implemented for certain commune areas without affecting the validity of a resolution on an advertising fee. If the terms and conditions are applied only to certain commune areas, as regards the installation of billboards, it will not be possible to collect fees in the areas not regulated in this regard.

A resolution on terms and conditions of the installation of billboards and advertising devices is adopted under Article 37a of the Act on Spatial Planning and Management. It may constitute a separate resolution, but the adoption of a resolution on the amendment of a spatial plan, if the subject of the plan is related to the issues indicated, should be allowed. In the context of procedural issues, as in the case of local plans, the procedure commences with the adoption of a resolution of intent and ends with the adoption of a resolution determining such terms and conditions[8].

The indicated sources of revenues for local government units will be supported by additional money from fines for the failure to pay fees and by collection costs and interest on the fees not paid within deadlines. Fines are imposed by a competent commune executive authority, by way of an administrative decision, for the failure to notify the installation or defective installation of billboards and advertising devices.

The amount of a fine is determined as a product of the surface area of a billboard or an advertising device, used to display an advertisement, expressed in square metres and 40 times the variable part of an advertising fee adopted by a municipal council.

[8] In the meantime the commune head, mayor or president of the city prepares a draft and obtains proper opinions and arrangements for the drafts of a future resolution.

Two types of decisions issued in this matter can be distinguished. The former concern the determination of a fine for the period from the commencement of the proceedings to the issuance of a decision[9]. The latter concern a fine for the period from the issuance of the first decision to the removal or adaptation of a billboard or an advertising device to legal requirements. An obligation to adapt or remove a billboard or an advertising device is imposed with the first decision and is immediately enforceable, but the time necessary to fulfil the obligation may be different, including the application of non–monetary debt collection means such as substitutive performance. The costs of substitutive performance will be, obviously, collected like possible unpaid fines by the application of monetary debt collection means. Thus, the period for the fulfilment of the obligation to remove a billboard depends directly on the behaviour of a person, who this obligation was imposed on. Following disassembly or adaptation of an advertising device or a billboard, the commune head, mayor or president of the city, being aware of the period which passed from the issuance of the first decision in this matter, may issue another decision, taking into consideration the period which passed from the fulfilment of the obligation.

Collecting fees on so–called „empty billboards" may, in practice, force their disassembly, which will have a positive influence on the landscape. Considering windows, shop windows, facades or even building structures as advertising devices or billboards is certainly not aimed at making them to be used only for their intended purposes. Thus, it seems that the legislator is not against the sheer idea of using windows or facades for placing advertisements, but only wishes to facilitate the collection of fees in this regard. From this perspective, the introduction of exemptions from fees, as regards the installation of signs, partly thwarts the economic goal of the introduction of the aforementioned fees. Furthermore, the collection of fees itself is dependent on the fulfilment of a number of conditions, including the introduction of tax resolutions and the amendment of planning resolutions. This, in turn, poses a risk of damages claims related to the reduction of revenues for the lease of the surface area of buildings and building structures.

[9] They do not include the period from before the commencement of the proceedings, that is the period when the advertisement was undoubtedly there.

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**Iwona Kowalska**[1]

# CONTROVERSY OVER THE ALGORITHM OF DISTRIBUTION OF THE SCHOOL EDUCATION COMPONENT OF THE GENERAL SUBVENTION

The school education component of the general subvention is the transfer of funds from the state budget to local self–government units in order to supplement their own income. The algorithm for the distribution of these funds, annually established by the Minister of National Education, creates legal and financial controversy in local self–government environment. The calculations based purely on algorithmic distribution of available public funds seem to be an inadequate form of financial planning especially when confronted with the development of finance as a discipline. Therefore, the aim of this article is to assess the construction of the algorithm for the distribution of the school education component of the general subvention with regard to three aspects, which have not been widely discussed:

1. Algorithm and financial security of the systemic changes in education;
2. Algorithm and indebtedness of local self–government units;
3. Algorithm and the unconstitutional rule of earmarking the funds transferred as the school education component of the general subvention to a specific goal.

**JEL Classification Codes: H7,G2, I2**

**Keywords:** finance, subvention, education, algorithm, local self–government.

## Introduction

The functions carried out by local self–government units (LGUs) can be classified into four main categories, i.e.: technical infrastructure, social infrastructure, public order and safety, spatial order and planning and conserva-

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tion and ecology (Niewiadomski, 2001). Fulfilment of these functions requires financial resources. According to the European Charter of Local Self–Government financial resources of local self–government units should correspond to the actual costs associated with the exercise of their powers (Journal of Laws of the Republic of Poland, abbreviated Dz. U. 1994 vol. 124, item 607). However, currently the public funds are distributed according to a complex formula in the form of three main funding sources: the central government subvention, subsidies and LGUs' own revenue. Nowadays, the maintenance of the calculations based purely on algorithmic distribution of available public funds seems to be an inadequate form of financial planning especially when confronted with the development of finance as a discipline. The need to go beyond the established schema can also result from the fact that the discipline of finance uses, almost exclusively, methods borrowed from other fields of science and disciplines. Firstly, there are possibilities offered by financial mathematics (the historically shaped and applied methods based on interest calculations, discounting and analyzes based on an arithmetic or geometric progression are now supplemented by new financial instruments, contracts and the dynamic development of futures markets, money markets and exchange markets) (Podgórska, Klimkowska, 2013), secondly, there is a considerable contribution by legal science, sociology, psychology, other social sciences and finally – technology sciences (Szambelańczyk, 2014). A suitable example is the algorithm for the distribution of the school education component of the general subvention. The formula has been creating financial and legal controversy in the local self–government since year 2000, when it was first implemented. The aim of this article is to assess the construction of the algorithm for the distribution of the school education component of the general subvention with regard to the three following aspects:

1. Algorithm and financial security of the systemic changes in education;
2. Algorithm and indebtedness of local self–government units;
3. Algorithm and the unconstitutional rule of earmarking the funds transferred as the school education component of the general subvention to a specific goal.

The system of funding education (which is the priority investment in human capital within the framework of knowledge economy), as a vital element of the public finance system and, more broadly, the entire financial system, deserves a revision of the existing doctrines of public finance associated, on the one hand, with the liberal financial concepts and, on the other hand, with the orthodox theory of public finance (see Owsiak, 2005).

## Construction of the algorithm for the distribution of the school education component of the general subvention

School education component of the general subvention transferred from central government to local self–government units constitutes the major educational expense incurred by the state budget. Therefore, it determines the amount of funding that local self–governments receive from the state budget for the implementation of educational tasks. The schools grant is not ring–fenced (earmarked to a specific goal), which allows local self–governments to decide on the allocation of funds from this source. However, the same fact results in the inability of local self–governments to acquire additional funds when the amount of the received subvention proves insufficient in relation to the actual cost of implementing educational tasks in the local self–government units (Constitutional Court, Judgement of 18 September 2006. K 27/05). According to article 27 of the Local Self–Government Income Act of 13 November 2003, (Dz. U. 2016, items 198, 1609 and 1985) the school education component of the general subvention for all local self–government units shall be annually determined in the Budget Act. According to article 28 of the cited Act, the amount of funding constituting the school education component of the general subsidy for all local self–government units[2] shall be equal to the total amount of the school education component of the general subsidy and not lower than adopted in the Budget Act for the given year, corrected by the amount of other expenses arising from changes in the performed educational functions. The formula for the distribution of the school education subvention is defined in the Regulation of the Minister of National Education concerning the distribution of the school education component of the general subvention across local self–government units in a given year. The content of the regulation is subject to annual amendments. In such conditions local self–governments find it difficult to develop long–term financial plans regarding school education provision. The Annex

[2] The final amount of the school education component of the general subvention for individual local government units are determined on the basis of statistical data concerning the number of:
1. Teaching positions for each grade in teachers' professional advancement scheme, as evidenced in the Education Information System (on 30 September and 10 October of the previous year) verified and confirmed by the authorities governing schools and education institutions.
2. Pupils in the current school year, reported in the Education Information System (on 30 September and 10 October of the previous year), verified by the authorities governing schools and education institutions.

to the Regulation includes a distribution algorithm for the school education component of the general subvention. It determines the division of public funds in accordance with the following formula:

$$SO = SOA + SOB + SOC$$

The meaning of the symbols is explained below:
**SO** – school education subvention, after deduction of the reserve, referred to in article 28, section 2 of the Local Self–Government Income Act of 13 November 2013.
**SOA** – the base amount of the school education subvention according to the financial standard 'A' of the division of the school education component of the general subvention dedicated to the implementation of school tasks;
**SOB** – the supplementary amount of the school education subvention calculated in accordance with 'P' weightings which increase the financial standard 'A' dedicated to the implementation of school tasks;
**SOC** – the amount of the school education subvention dedicated to the implementation of out–of–school tasks.

The key element of the breakdown of the amount of the school education component of the general subvention for the financial year is financial standard 'A' per–pupil, modified by the weightings system (depending on the type of educational task) and a modifying index taking into account the grades of teachers' professional promotion 'Di'). Financial standard of the division is obtained by dividing the total amount of the subvention (after deduction of the reserves) by the total number of pupils. This provision does not correspond to the provisions of the cited Regulation indicating that the allocation of the general subvention to local self–government units shall take into account the following functions:

1. Funding of current expenditures of schools and institutions run by local self–governments related to:
   – Teachers: salaries and derivatives; professional advancement training; granting paid leave for health reasons; severance pay[3]; remuneration to apprenticeship supervisors, social benefits for pensioners; salaries of teachers involved the oral part of the matriculation examination; costs

[3] According to article 20 of Teacher's Charter the school director has the right to terminate the contract of employment with a teacher in case of total or partial liquidation of the institution, and in the case of organizational changes causing a reduction in the number of classes in the school or changes to the curriculum which prevent further recruitment of teachers.

of the examination commission granting professional advancement grades to teachers);
- Pupils: individual teaching; education of students who are not Polish citizens; early support of child development; equipment for health care and first aid facilities; career advising services.

2. Subsidizing schools and institutions run by legal entities other than local self–governments and by natural persons.

It is not possible to determine the cost of implementation of the above-mentioned tasks i.e. to execute from the state budget such number of financial standards 'A' to cover e.g. current expenditure on school education provision. If the algorithm took into account standard costs of education services (including teachers' employment standards) (see Kowalska, 2010) the allocated funding would be more adequate to the actual needs of local self–governments. To sum up, the algorithm is presented as a formula which ensures that money follows a pupil while in reality it is not a pupil but a class which generates costs for local self–governments.

## The algorithm for the distribution of school education component of the general subsidy and funding needs of local self–governments in the perspective of education system reform

According to Education Act of 14 December 2016 (Dz. U. 2017, item 59) and the regulations implementing the Education Act (2017, item 60) the school system will be transformed. The current system comprises: 6–year primary school, 3–year lower–secondary school (gimnazjum), 3–year upper–secondary school (liceum), 4–year upper–secondary vocational school, 3–year basic vocational school and post–secondary non–tertiary school. The new system of education will comprise: 8–year primary school, 4–year secondary school (liceum), the 5–year secondary vocational school, 3–year lower secondary industry–school, 2–year–old higher secondary industry secondary school, 3–year special vocational school for pupils with disabilities and post–secondary non–tertiary school Lower secondary schools will gradually be phased out starting from the school year 2017/2018. In this year and the coming years recruitment to these schools will no longer be conducted. Starting from 1 September 2019, secondary schools will no longer exist in the school system.

The question that should be asked here is if the algorithm for dividing the school education component of the general subsidy addresses the needs for

funding which local self–government units have in connection with the implementation of the reform of the school system. In the justification of the Regulation of 22 December 2016 concerning the distribution of the general subvention to local self–government units in 2017 (Dz. U. 2016, item 2298) the Minister of National Education presented a line of argument which cannot be accepted. The argument suggest that because of the increase of school starting age (from 6 to 7 years) the amount of the school education component of the general subvention in 2017 should be reduced by the amount of 1 449 473 thousand PLN as the scope of education tasks fulfilled by local self–governments and covered by the subsidization has decreased. In fact, the amount earmarked to this goal in the draft state budget for 2016 was 1 204 000 thousand PLN which represented a difference of nearly 250 million PLN. The excess amount could be used by local self–governments to cover organizational changes in schools and education institutions. However, it should be noted that the excess amount does not include the majority of 7–year–old pupils who do not repeat the first grade and start the second grade. Consequently, the funding earmarked to cover the costs of the education system reform is lower than the amount of 250 million PLN. The budget for 2017 does not specify the number of seven–year–old children who will begin compulsory schooling in the next financial year. The absence of this figure makes it impossible to determine if the reduction of the school education component of the general subvention by the abovementioned amount is adequate. Therefore it cannot be concluded that the increased funds for this purpose will fully cover the local self–governments' expenditure on organizational changes in schools and education institutions. Projected number of statistical pupils determines the number of pupils used for calculations, which in turn has direct effect on financing various educational tasks (*Opinion of the National Section …*, 2016).

Another important issue related to the transformation of the education system is financial coverage of teachers' layoffs resulting from the reform. Local self–governments expected that funding for this purpose will be included in the algorithm for the distribution of the school education component for the year 2017. However, the Ministry denied the fact that the implementation of the school reform would lead to layoffs of teachers. Thus, the algorithm does not include any funding factor that would directly relate to this purpose. However, it can be argued that as a result of the liquidation of lower secondary schools and the introduction of 8–year primary school municipalities will provide education services for 8 not 9 grades of pupils (approx. 357 thousand

pupils less). According to the calculations made by the Polish Teachers' Union (ZNP) the amount of school education component of the general subvention which municipalities will receive to maintain the same number of buildings and teachers in 2017 will be approximately 1.89 million PLN smaller. This is the equivalent of the salaries of approximately 37 thousand teachers (in the school year 2016/2017 lower secondary schools employed approximately 100 thousand people). Furthermore, according to the law lower secondary school teachers employed by appointment or with unlimited contract of employment, whose further employment in the school year 2017/2018 will not be possible due to the organizational changes resulting from changes in the structure of the schools, will be granted the 'inactive' status or their employment contracts will be terminated at the end of the school year. Teachers who have been granted the 'inactive' status will receive a salary for six months. This is a hidden cost of the reform for local self–governments, because the municipalities will have to pay these salaries without any additional funding secured from the central budget. After this period of time the employment status of teachers who do not get a job in another school will automatically terminate. Also, it should be emphasized that the 'inactive' status can only be granted to appointed teachers or those with unlimited contract of employment. Those teachers who are employed on fixed–term contracts (mostly young teachers) probably will not have the contract prolonged and if they do not get a new job (regardless of industry) they will become unemployed. Consequently, the municipalities' expenditures on social welfare will increase. According to the Ministry of National Education, in the transition period the teachers with 'inactive' status will have the priority to fill available vacancies. However, the new secondary schools which gained additional grade (year) and in theory could employ teachers from the lower secondary schools, each year lose approx. 30 thousand pupils. This means that even without the reform, one in three teachers employed by the district authorities works part–time. Therefore, when following the reform secondary schools open more classes the head teachers will first add teaching hours to the schedules of the already employed teachers to let them work full time rather than recruit new teachers. The shield program involving the ban on teachers' overtime may also increase the costs for the local self–government, (e.g. instead of paying for extra 2 or 3 hours to already employed teachers the authorities will need to employ a part–time teacher which generates costs per person).

## Algorithm for distributing the school education componentof the general subvention and debt limits for local self–government units

In the algorithm for distributing the school education component of the general subvention costs are calculated per pupil. As a result, the amount of school education subvention may not cover the actual cost of the implementation of educational tasks paid by local self–government units, because the cost is generated by a class and not a single pupil. The missing funds for the implementation of educational tasks may come from local self–governments' own revenue. The revenue comes from four sources: local taxes, property, share in state taxes, income other than grants earmarked to a specific goal or general subvention) (Guziejewska, 2008). Also, local self–government funds are public revenue and the power to define it is constitutionally reserved for the law. Local self–governments are not entitled to enact law regarding their revenues. They have only the power to modify the rates to the extent provided by the existing law (e.g. grant a relief, set a lower rate, debt remission) (Kosikowski, Salachna, 2012). Naturally, municipalities in Poland have diverse budgets. The indicators of tax revenue per capita (index G) for 2015 show that the income of the richest municipality in Poland – Kleszczów (34 825.79 PLN), is more than 80 times higher than the tax revenue of the poorest local self–government Radgoszcz (424.77 PLN). The national average can be represented by Czestochowa, where tax revenue per capita is 1 597.53 PLN (Ranking of Municipalities 2017). The missing amount of funding can be obtained from external sources or by incurring financial obligations. But local self–government debt limit is regulated by art. 243 of the Public Finance Act of 27 August 2009. (Dz. U. 2013.885; 2016.10.01; Dz. U. 2016.1454). Thus, local self–governments which lack funding will have the dilemma of how to acquire funds and not exceed the statutory debt limits. The flaws in the algorithm of the division of the school education subvention (financial standard 'per–pupil') can contribute to yet another negative phenomenon – local self–governments may be tempted to bypass debt limits, imposed by the Public Finance Act, and use non–standard debt instruments. The use of non–standard instruments is fostered by the pressure connected to the implementation of EU investments (including investments in education) under EU programming for 2014–2020[4] combined

[4] In the programming period of the EU for the period 2014–2020 local governments will receive about 100 billion PLN, 65 billion of which will come fromf the Regional Operational Programmes.

with the limited possibilities of local self–governments to take out loans, credits and issue securities.

Non–standard debt instruments are not forbidden. They are endorsed in the Regulation of the Minister of Finance of 28 December 2011 concerning the detailed method of classification of debt instruments classified as public debt (Dz. U. 2011 vol. 298, item 1767) which includes catalogue of debt titles evidenced as state public debt. Local and regional authorities use different methods to bypass the statutory rigors concerning debt:

1. Concluding apparent debt takeover and debt restructuring agreements. In essence, with regard to their content, they may be classified as loan or credit contracts or unnamed agreements of the same nature because there is no entry of a third party (a bank or financial institution) in the position of the creditor to the amount of the incurred payment (in the analyzed cases, the third party was not entitled to the same receivables the original creditor).The agreements were not concluded in order to acquire the creditor's rights, but to make a profit (interest rate, commissions). These agreements were not less burdensome for the debtor (local self–government units). In relation to the original debt they did not offer e.g. a shorter repayment period or lower interest rates. In addition, the local self–government unit was obliged to pay additional fees to the new creditor (bank, financial institution), such as interest rate, commission and debt restructuring commission. The agreements extended the time limit for credit repayment compared to the original creditor's terms and secured the return of the amount of credit to the bank or financial institution in the form of a blank promissory note.
2. Factoring agreement. According to the so–called. Ottawa definition a factoring company performs at least two of the following actions:
   - Finances undisputed and undue receivables;
   - Keeps records of accounts receivables;
   - Enforces claims;
   - Takes the risk of customer solvency (Filipiak, Zioło, 2016)Under such agreements, the factor (bank) agrees not to collect its receivables from the debtor after the expiry of the repayment date as specified in the VAT invoices (as a rule, the debtor should pay the due amount within the period specified on the invoice and after expiry of the term the creditor should take steps to enforce the receivables) and the debt will be repaid in the new repayment period, which is extended by a few years in relation to the payment terms specified in the invoices. In exchange for the extension of time limit for debt repayment and the bank's commit-

ment not to enforce the debt the borrower has to pay interest calculated from the due date (the date indicated in the invoice) to the repayment date (new deadline for payment of debts agreed between the parties in the payment schedule annexed to the agreement) These agreements are essentially new credit agreements or agreements of a similar nature. In fact, in factoring the role of a debtor does not change. As a rule, the debtor should only repay the debt to the new creditor.

3. Other pseudo–financial products displaying the characteristics of refundable financing instruments like subrogation, sellback and leaseback. These instruments involve complex legal and financial structures, which differ from classic loans and securities because they are not subject to statutory limitations with regard to their content (purpose), obligation to acquire appropriate opinion of the supervisory authority or meeting statutory debt limits.Subrogation involves two parties – a financial institution pays off the debts of local self–government unit and is entitled to enforce its receivables while a new repayment schedule is agreed. The financial institution does not aim to take the rights of the creditor, but to create a new legal relationship, (in particular regarding the terms and conditions of debt repayment by the local self–government unit). From the economic perspective, the transaction is similar to taking out a loan by the local self–government to meet specific obligations (repay debt to former creditor). In the local self–government's budget the repayment to a financial institution is recorded as current expenditure or property expenditure, depending on the nature of the receivable. This option is not included in the provisions of Public Finance Act (art. 243) and should be treated as debt title (Regulation of the Minister of Finance on the specific method of classification of debt instruments classified as public debt, sec. 2, subsec. 2). But subrogation of debt pursuant to the Civil Code (art. 518, sec.1, subsec. 3) permits the repeated incurring of debt (Kluza, 2015).
   – Sellback – involves a purchase of property (land, developed land) by a financial institution, from a local self–government while at the same time both parties conclude a preliminary purchase and sale agreement whereby the local self–government undertakes to purchase the property back at the sale price Up to this date the property is owned by a financial institution and leased to the local self–government unit, e.g. on the basis of a lease agreement. The sales–back involves three agreements (purchase and sale contract, lease contract and preliminary purchase and sale contract). The seller of the property gets rid of a tangible asset in exchange for financial assets and still retains exclusive rights to

dispose of the property. The buyer receives the right to collect benefits from the lease of property and resigns from the owner's right to dispose of the property in return for rent paid for the entire period until the re–transfer of ownership Thus, from the initial sale until the repurchase the seller does not lose control over the property and the buyer receives rent together with a guarantee of repurchase. Neither party is actually interested in buying or selling the property (transfer of ownership), but only the cash flow resulting from the exchange of assets. Therefore in such cases it is groundless to perceive these purchase and sale or lease contracts as classic civil law contracts. When used in a package, they form the instrument for trading monetary assets, based on the return transfer of ownership. In this context, the applied solution becomes an instrument of financing analogue to a loan referred to in article 89 and article 90 of the Public Finance Act. The analysis of the described operations leads to the conclusion that its real purpose is taking out a loan by local self–government unit where the selling price is income, the lease rent is the cost of debt service and the purchase price of the property is repayment of the loan (*Report on the activities...,* 2015).

– Leaseback involves debt financing, based on mutual transfer of property rights in order to release capital without prejudice to existing rights to use the assets (sale of an asset and the simultaneous acquisition of this asset under a lease contract) (International Financial Standard 17, Leases. Official Journal of the European Union, 29 Nov. 2008 L 320/83, Westerfield, Jaffe, 1999). By entering into a lease agreement the financing party undertakes to buy an asset from a specific vendor under the terms of the agreement and then provide it as a leasing subject to the lessee for a defined period of time while the lessee agrees to pay the lessor a rent in agreed instalments and the total of rental payments should at least be equal to the original price the lessor paid for the asset. In order to fulfil the definition of leaseback the vendor of an asset and the lessee should be the same entity The agreement provides for the return transfer to the vendor after the period for which the contract was concluded.

The use of these non–standard debt instruments usually has a different effect than the local self–governments would expect. The contracts, which in nature are credit agreements or contracts of a similar nature should be evidenced as the public debt. The fact that local self–governments do not include their actual receivables restructured with the help of non–standard financial instruments in the calculation of debt index results in the increase in

their actual debt, leading to a situation in which they may not be able to adopt the Multi–Annual Financial Forecast (WPF) or budget in accordance with the rules referred to in articles 242–244 of the Public Finance Act. To sum up, the use of non–standard debt restructuring instruments is dangerous, because the phenomenon significantly distorts data reflecting the financial situation of local self–governments. In extreme cases the local self–government may be compelled to adopt a rehabilitation program or the budget is adopted by the Regional Chamber of Audit. The report of Regional Chambers of Audit: „Non–standard financing instruments and budgetary needs of local self–government units" published in 2016 shows that the liabilities of local self–government units amount to a total of 274.5 million PLN (including the original debt and any payments incidental to the instrument, e.g. the rental payments, interest, fees, lease payments, deposits on account of the repurchase, etc.).

Regional Chambers of Audit identified a group of local self–governments, which were in danger of losing liquidity, or have lost liquidity. The analysis of data from Multiannual Financial Perspective (WPF) aggregated from the reports on meeting obligations, a statutory instrument of control and monitoring of debt (in force from 2014), showed that in the years 2015–2018, hundreds of local self–government units will have little potential to incur new debt obligations in the form of loans, credits and securities. When formulating such opinions Regional Chambers of Audit take into account the methodology of Multiannual Financial Perspective developed by the Ministry of Finance according to which the essence of the assumptions made in the development of this document should be based on how much money a local self–government has, and not how much they need (Sołtyk, Dębowska-Sołtyk, 2016). In the opinion of Regional Chambers of Audit is necessary to extend the catalogue of debt titles by including unnamed contracts having an effect equivalent to a loan or credit agreement.

## The algorithm for distribution of the school education component of the general subvention and the unconstitutional rule of earmarking funding transferred as part the grant to a specific goal

Algorithm and the unconstitutional rule of earmarking money transferred as part the schools grant to a specific goal is an issue which can be illustrated by the example of the Budget Implementation Act 5 December 2014 amending certain acts in connection with the implementation of the Budget Act (Dz. U. item 1877). The abovementioned act states that, from 1 January

2015 funding allocated by local self–governments to education of pupils with special educational needs (SEN) should not be lower than the amount calculated for these tasks in the school education component of the general subvention. According to article 32 of the cited Budget Implementation Act in 2015 funding for tasks that require special organization of learning and working methods for children and young people has to be allocated in the amount not smaller than the amount resulting from the division of the general subvention for local self–government units. These provisions of the Budget Implementation Act followed the interventions of the Government Plenipotentiary for the Disabled who reported that the funding from school education subvention does not reach students with disabilities, but serves other goals. This seemed to be a real problem as the funding per pupil with special educational needs can be much higher than the standard per pupil rate. Pupils with disabilities attract additional amount of funding from the subvention depending on the type of disability: even 9.5 times the basic per pupil funding rate (e.g. a pupil with multiple disabilities could attract even 50 thousand PLN per year). This supplementary amount called conversion weighting is calculated on the basis of a statement of special educational needs held by a pupil. Therefore new budget classification sections have been created to evidence expenditure in this area:

1. 80149 – Implementation of the tasks requiring special organization of learning and working methods for children in preschools, preschool classes in primary schools and other forms of pre–school education;
2. 80150 – Implementation of the tasks requiring special organization of learning and working methods for pupils in primary schools, lower and higher secondary schools, vocational secondary schools and art schools.

The Ministry of Finance stressed that education of children and young people with SEN requires a correspondingly higher funds, which are secured in the algorithm for the distribution of the school education subvention for a given year by weighting the formula factors. It is therefore appropriate to expect local self–government units to allocate funds in the amount not lower than the amount resulting from the division of the general subvention. The Ministry of Finance also argued that local self–governments and schools under their governance should maintain separate evidence of expenditure on education of children and young people who require special organization of learning and working methods, in particular pupils with disabilities. Even though the Ministry's arguments cannot be easily dismissed critical voices arose undermining the usability of the budgetary classification (negligible cognitive value regarding processes associated with the allocation of public

funds, low legibility, generic character, lack of focus on results, not applicable in effective and efficient public finance management) (see Heciak, 2014). When the Ministry of Finance planned to alter budget classification they took into account the results of the report of the Supreme Audit Office (NIK). The NIK report from 2012 followed an inspection of school governing bodies. The report showed that 19 percent of the inspected local self–governments have not used 100 percent of funding (from the school education component of the general subvention) earmarked to the education of pupils with disabilities. Although the report also showed that in the case of 62 percent of local self–governments the amount of funding allocated to the education of pupils with special needs exceeded the amount of the granted subvention and 19 percent of self–governments spent exactly the amount granted as school education subvention.

Local self–governments do not question the necessity of allocating higher funding to educating pupils with disabilities. However, the changes, (introduced in 2015), in settling the school education subvention dedicated to pupils with SEN needs were rated as doubtful with reference to local authorities' financial independence and systemic changes in local self–governments. The changes in providing education for pupils with disabilities have turned the school education component of the general subvention into yet another grant (subsidy) from the state budget. The way school education subvention is supposed to be settled is incompatible with article 7 sec. 3 of the cited Local Self–Government Income Act. In the case of the general subvention – including the school education part of the general subvention – it is the governing body of the local self–government unit who is in power to decide about the funding destination. There are two important differences between a subvention (including school education subvention) and a subsidy (grant):

1. Subvention as opposed to subsidy (grant) is a legal claim and is not subject to any settlement (nor any conditions) – the decision as to its distribution, is taken by the authority that received it. Therefore, a condition included in the text of article 32 of the Budget Implementation Act is inconsistent with the definition of a subvention and therefore inconsistent with the provisions of the Local Self–government Income Act.
2. This distinction is reflected in doctrinal definitions of the general subvention. The general subvention is a transfer of funds from the state budget to local self–government budgets and it is general in character, non–refundable, unpaid, not subject to any terms and is meant to support their own revenue. Only the governing bodies of local self–government units are in power to decide about the allocation of this funding. While the subsidy

according to Polish financial law means the transfer of funding earmarked to goals strictly defined by law. The term 'subsidy' is used when an entity is supported with funding from public resources transferred from a budget or special purpose fund (Lachiewicz, Legutko, Winiarz, 2006). Etymologically the Polish term dotacja (subsidy) is derived from the word dotatio which means providing someone with material goods ( Lachiewicz, 2010).

Changes provided in art. 32 of the Budget Act are also considered questionable in the context of compliance with article 32, sections 1 and 2 of the Constitution (Dz. U. 1997 vol. 78 item 483).

Regardless of the problem of earmarking the funding for local self–governments to a goal (ring–fencing), the settlement of the school education component (consistent with the principle that funding amount spent on education of pupils with SEN should not be lower than the amount resulting from the division of the school education component of the general subvention) required addressing the following issues:

1. Can local self–governments allocate funding as they wish, i.e. in such a way that the amount of funding for the implementation of the abovementioned tasks was not lower than the amount granted as the school education component of the general subvention or should they include the funding in separate financial plans of each of the institutions they govern in accordance to the weights subscribed respectively to each unit?
2. Should the sum of financial plans (sections 80149 and 80150) be equal to the sum of the weights from the school education subvention, or should this sum include other budget sections, e.g. 80102, 80105, 80111?
3. Does the introduction of new budget sections result in the transfer of plans from such sections as 80105 (Special Preschools), 80102 (Special Primary Schools), 80121 (Special Secondary Schools) to sections 80149 and 80150? Could this mean that such sections as 80105 (Special Preschools), 80102 (Special Primary Schools) will not function?
4. When settling the school education component of the general subvention, should only two new sections (80149 and 80150) be taken into account or also other sections like e.g. 85406 (Counseling Centers)?
5. What are the penalties for local self–governments for failure to allocate funding in the amount required by regulations? It can be argued that in such case the local self–government would breach the discipline of public finances (understood as acting in compliance with legal norms defining the rules of acquiring and spending public funding applicable to all entities disposing of public finance) (Ziółkowska, 2012).

The proof of compliance with the requirements of article 32 of the Budget Implementation Act was the amount of planned budget expenditures of local self–government units and their implementation (spending) under the new sections 80149 and 80150, but also plan and implementation of the budget of local self–government units related to the abovementioned school education component of the general subvention under the previously existing sections: 80102, 80105, 80111, 80121, 80124, 80134.

During the financial year local self–governments were obliged to revise their budgets and evidence their costs in the existing and new sections. The most significant item was personnel costs. The cost extraction was not difficult for teachers who are employed exclusively in connection with the special organization of education for pupils with special needs, but problems arose in the case of teachers whose responsibilities include both special and standard teaching. It was even more difficult to estimate the costs of electricity, heating or water per pupil with special educational needs educated in an institution for a longer period of time. Another problem was to calculate the costs of providing special education to pupils attending mainstream classes, where the pupil with SEN is granted a certain number of extra hours, often with different teachers who deliver only a number of hours of special teaching alongside standard teaching. Due to the planned reform of the education system from 1 September 2017 the work on the changes in the way the school education component of the general subvention is settled and evidenced will be continued, because once again local self–governments will be obliged to use different budget classification under the heading: 801: Education and Upbringing (section 80111 – special lower secondary schools will not function due to the phasing out of this type of school).

## Summary and Conclusions

The conducted analysis of the algorithm for distribution of the school education component of the general subvention with regard to the aspects mentioned in the introduction showed that:

1. The algorithm does not secure funding for the planned changes to the system of education (the cost which local self–governments will have to bear to implement the school system reform);
2. When the funding for the provision of public education tasks by local self–government units is not secured, local authorities may be determined to acquire the missing funds from the market by taking out loans. However, in

order to bypass debt limits local self–governments reach for non–standard debt instruments that actually increase their actual debt;

3. The allocation of school education subvention can be evidenced with the violation of the principle according to which funding transferred as part of the general subvention should not be earmarked to any specific goal (ring–fenced), which makes it identical with a subsidy.

These conclusions could provide a ground for discussion about changes to the way in which funding for school education is distributed and evidenced in Poland. The results of these analyzes could be presented at consultation workshops organized by the Ministry of National Education on the calculation methods to determine the total amount of school education subvention and the principles of its division. However, these workshops are dedicated mainly to representatives of local self–governments, governing bodies of schools and education institutions, head teachers and school superintendents. Unfortunately, the representatives of the scientific community are not invited. The contribution of the latter could enrich the discussion by providing research results on the economics of education in order to see the inevitable cause and effect relationships between educational finances and the whole system of public finance.

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# THE ENVIRONMENTAL PROTECTION FINANCING BY THE LOCAL GOVERNMENT UNITS

The article discusses the rules of financing environmental protection by local self-government units. The statutory tasks specified by local governments in this respect were indicated. Then possible forms of financing environmental protection are presented. Municipality, county or province can use different sources of funding. The next element of the article is to determine the amount of environmental spending at each level of local government in recent years.

JEL Classification Codes: **G18, H72, H76.**

**Keywords:** Environmental protection, public finances, local government.

## Introduction

Poland, with almost 40 million citizens, is a modern country in central Europe, a European Union member since 2004., successfully implementing a policy of sustainable development, in which natural resources are the pillars of sustainable development – economic and social. Rational use of resources and their protection, for the sake of present and future generations, are the backbone of the national environmental policy (System, 2013, p. 19). Poland on the issue of financing projects in the field of environmental protection bases on the created in the early nineties integrated system of financing. The institutional basis of this system are the funds for environmental protection and water management. An important role in this process also plays a Bank of Environmental Protection and foundations whose statutory

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purpose is to protect the environment. Due to the fact that environmental protection mainly in the context of the restoration of its elements to the previous state is an action very expensive and labor–intensive, creating by the state institutions co–financing a number of initiatives of environment–friendly will contribute to a reduction, or if it is feasible to eliminate the negative environmental impacts.

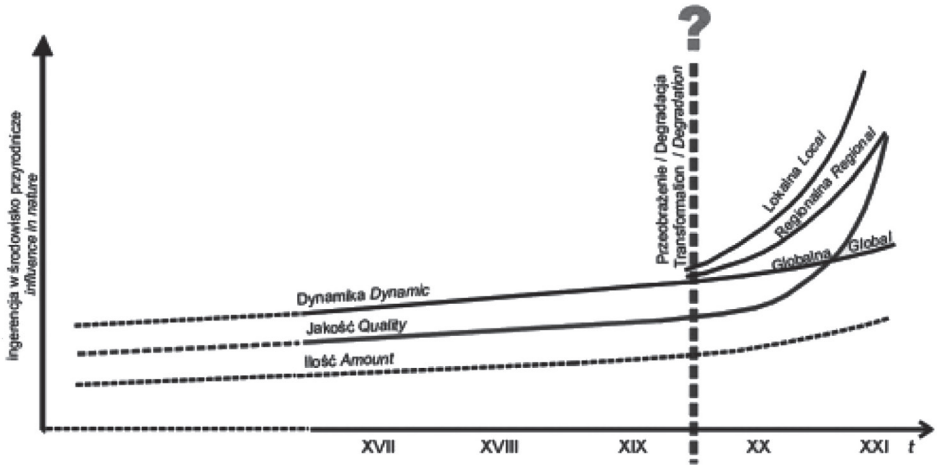


**Figure 1. Changes in the severity of human interference in the natural environment**

Source: J. Pociask-Karteczka, *Czy istnieją granice integracji człowieka w środowisko przyrodnicze?*, [in:] *Nauka a zarządzanie obszarem Tatr i ich otoczeniem*, tom III, Zakopane 2010.

It should also be noted that funds for environmental protection and water management are included in the so–called the statutory environmental institutions. It is also important the fact that the development of the investment environment depends greatly on the system of incentives included in the national environmental policy tools and they are: the legal and economic instruments and the organizational and institutional solutions. These instruments can be either direct or indirect regulation. The direct ones include laws setting out the management and use, development of environmental emission standards, standards for permissible concentrations of pollutants, the rules governing the use of natural resources, etc. This ensures the proper allocation of resources between users of natural environment. Intermediate, in turn, include economic instruments, such as: taxes, fees, subsidies, financial incentives, compensation, ecological insurance.

## The tasks of local government units regarding environmental protection

According to the Polish Constitution local government shall perform public tasks not reserved by the Constitution or statutes to the organs of other public authorities and the basic unit of local government is the municipality which performs all tasks of local government not reserved to other units of local government (Constitution, 1997, art. 163). In the act on commune self–government states that the tasks of the municipality must satisfy the collective needs of the community, and in particular their own tasks include matters that will include issues related to environmental protection. The latter include actions belonging to:

1) spatial order, real estate management, environmental protection (in the strict sense) and wildlife and water management,
2) health care,
3) green municipal and tree planting,
4) municipal cemeteries,
5) maintenance of municipal buildings and public facilities and administrative buildings,
6) support and promotion of the idea of self–government, including the creation of conditions for the operation and development of auxiliary units and implementation of programs to stimulate active citizenship,
7) promotion of the municipality,
8) cooperation and the activities of non–governmental organizations,
9) cooperation with local and regional communities of other states (Act, 1990, local government, Art. 7).

These activities may be related to the protection of the environment directly or indirectly. It is important, however, aspects of financing pro–environmental actions. It should be noted that the municipal fund for environmental protection and water management cannot benefit from financial assistance from the budget of the local government, the act creating the fund does not provide such assistance. The source of income of the special fund may be among others: subsidies from the state budget or local government budgets, it requires confirmation by identifying the sources of revenue in the special act, which is in any case the law establishing the fund. However, in order to properly take care of the environment in the community, we should take care of the cleanliness and order, which is the responsibility of the municipality. In contrast, due to financial difficulties municipalities are trying to transfer this obligation to other entities. It should be noted that the municipality is guided by self–interest on the basis of their financial means and this applies to activ-

ities undertaken and adopted and implemented plans. In addition, municipal authorities guided by the principle interest of the entire community, and not the interests of the individual, especially if in the context of actions taken, they could undermine the environmental safety of the community (Jablonski, 2012, p. 77–79).

In the case of counties, their tasks related to the protection of the environment are:

1) public education,
2) health promotion and protection,
3) public transport and public roads,
4) geodesy, cartography and land registry,
5) real estate management,
6) architectural and building administration,
7) water management,
8) environmental protection and nature conservation (in the strict sense),
9) agriculture, forestry and inland fisheries,
10) flood protection, including equipment and maintenance of the district flood response magazine, fire prevention and other extraordinary threats to human life and health and the environment,
11) unemployment counteracting and activating the local labor market,
12) consumer protection,
13) the maintenance of county buildings and public facilities and administrative buildings,
14) the promotion of the county,
15) cooperation and activities dedicated non–governmental organizations (Act 1998, county government, Art. 4).

It may be noticed that the tasks of county environmental issues are much more complex than the tasks of the municipality. This is because the communities as opposed to the counties have the principle of the presumption of competence and counties can perform only those tasks that have been assigned to them. Practice, however, shows that the list of tasks make a *numerus clausus*, but comprehending it should be understood in a broad and consistent with the interests of county residents.

The provincial government determines the scope of his activities to the strategy development of the region, taking into account in particular:

1) cultivating, developing and shaping the national consciousness, civic and cultural of the inhabitants, as well as nurturing and developing local identity,

2) the stimulation of economic activity,
3) raising the level of competitiveness and innovativeness of the economy of the region,
4) preservation of cultural and natural environment, taking into account the needs of future generations,
5) formation and maintenance of spatial order (Act 1998, local governments, Art. 11).

It is noted that building development strategies of the region, a period is separated not extending beyond the period covered by the currently binding medium–term national development strategy, taking into account the principle of sustainable development.

Therefore, after the legislative changes took place ultimately it was determined that the strategy development of the region includes:
1) diagnosis of the socio–economic situation of the region,
2) the strategic objectives of the development policy of the region,
3) determine the courses of action taken by the provincial government to achieve the strategic objectives of the development policy of the region.

In addition, the scope of activities of local government and its strategy remains strictly correlated to the policy of the regional authorities, which consists of, inter alia: rational use of natural resources and shaping the environment, in accordance with the principle of sustainable development. As a result, the provincial government performs the tasks of a specific regional law in the environmental field, mainly in the modernization of rural areas, zoning, environmental protection, water management, including flood protection, and in particular the equipment and maintenance of provincial flood control storage (Jablonski, 2012, p. 80–81).

## Sources of financing environmental protection

The National Fund for Environmental Protection and Water Management was established in 1989 during the turbulent political and economic transformation in Poland in the situation of the general lack of funds not only for the environment, but also for social, cultural and scientific development. The main idea of accompanying the creation of this institution was to find the proper way of enabling suppression of progressive degradation of the environment. The National Fund is an important tool for the implementation of environmental policy in Poland. The stable revenues, experienced staff and developed forms of cooperation with the beneficiaries serve this

purpose. The National Fund offers loans, grants and other forms of funding projects, among others, by governments, businesses, public bodies, social organizations and individuals. In the public finance sector, the National Fund is also Poland's largest partner of the international financial institutions to use foreign funds earmarked for environmental protection. Together with provincial funds for environmental protection and water management the NFEPWM creates a system of environmental funds, which are based on the Common Strategy of activity of the National Fund and provincial funds for environmental protection and water management for the years 2013–2016 with the prospect of 2020 (Wierzbowski, Rakoczy, 2005, p. 113). It should be noted that the National Fund manages its own finances, acting under the Environmental Protection Act and in accordance with the EU principle of „the polluter pays". Derives revenues primarily from fees and penalties for use of the environment, maintenance fees and concession fees in the energy sector, the charges associated with the act of recycling end of life vehicles and the sale of assigned amount units of greenhouse gases. It also offers the use of foreign funds earmarked for environmental protection, among others, from the Cohesion Fund, the European Regional Development Fund, LIFE + Programme, the Norwegian Financial Mechanism and the Financial Mechanism of the European Economic Area. Proceeds received by Poland in international sales transactions rights to carbon dioxide emissions under the Kyoto Protocol, supply system of green investments (GIS – Green Investment Scheme), which supports investments in the field of climate protection and the reduction of greenhouse gas emissions (nfosigw.gov.pl).

The structure consists of funds for environmental protection and water management in the current legal status:

1. The National Fund for Environmental Protection and Water Management.
2. Provincial Funds for Environmental Protection and Water Management.
3. District Funds for Environmental Protection and Water Management.
4. Municipal Funds for Environmental Protection and Water Management.

According to the Act of 27 April 2001 on environmental law funds granted specific legal status of one of several statutory environmental institutions, because the essence of the institution as opposed to being a public authority is the function of an advisory, which is not associated with a typical for the body element of administrative governance. The legal status of provincial funds for environmental protection and water management is identical with the National Fund. It should also be noted that the county and municipal funds operate in the activities of local governments and their functioning is based

primarily on the award of grants. In contrast to the funding of provincial funds the county and municipal funds, despite the fact that there are special purpose funds, they do not have legal personality, so that the executive bodies of counties and municipalities are obliged to provide the authorities constituting the approval of projects revenues and expenses for a specific year in the framework of these funds. It should also be noted that in the case of county and municipal funds environmental expenditures are non–refundable forms of financing environmental protection (Paczuski, 2000, p. 157).

The tasks of the funds at all levels include:

1) environmental education linked to the promotion of ecology and sustainable development principles,
2) support for national environmental monitoring,
3) undertake the tasks of modernization and investment in environmental protection and water management,
4) projects related to nature conservation in the design and maintenance of green areas, forestation and parks,
5) implementation of projects related to waste management,
6) preventive health care of children from areas where there are exceeded environmental quality standards,
7) supporting the use of local renewable energy sources.

Also relevant is the fact that in the first place in the selection of projects for funding, resources of the National Fund are to be spent on funding projects with the participation of non–reimbursable EU funds and other non–refundable foreign funds. The main goal of this type of support is for Poland to achieve ecological effects set out in the Accession Treaty. On the basis of resolutions of the Supervisory Board of the National Fund for Environmental Protection adopted on 11 September 2007 has been defined list of priority projects for financing the fund in 2008. The mainareasfunded by the National Fund include:

1. Water protection and water and sewage management, as part of which it is intended construction and modernization of sewerage systems, as well as the construction and expansion of municipal sewage treatment plants. In addition, the construction and modernization of supply systems water intake and water treatment plants.
2. Protection of the earth's surface, waste management and resource management concerning waste prevention and management and rehabilitation of degraded areas.
3. Ecological safety in the prevention of and at the same time reducing the impact of natural hazards and major accident prevention. This area con-

cerns the monitoring of the environment through the implementation of new tools and methods for environmental monitoring.
4. Air protection by increasing the efficiency of energy production, distribution and use of energy, including in particular the increase in the production of energy from renewable sources.
5. Nature and landscape protection and shaping environmental attitudes including support for projects concerning the protection of natural habitats in protected areas and the preservation of species diversity. It also includes the elimination of direct threats to natural areas by limiting low emissions, wastewater regulation, removal of materials containing asbestos from areas owned by the State Treasury in areas of national parks areas included in the Natura 2000 network.
6. Supporting education for sustainable development (Regulation of the Minister of Environment, 2002).

In terms of sources of financing environmental protection by local governments extremely important role was played by funding from the European Union. They played a great role in the absorption of EU assistance funds, especially in the pre–accession period and for the financial support programs of the „old" financial perspectives of the EU budget for the years 2004–2006 and 2007–2013 budget. The most significant in terms of financial size and Polish membership in the European Union is to act by the National Fund and provincial funds the role of Implementing Authority for the priorities of the Operational Programme Infrastructure and Environment (OPIE) 2007–2013. Infrastructure and Environment Programme is now one of the most important sources of financing environmental protection in Poland. From the OPIE budget of (2007– 2013) exceeding € 28 billion, for investments in environmental protection more than 5 billion euros were allocated. The experience of the National Fund, as a partner institution, implementing and operating, was a key factor in decision making by the Minister of Environment and Minister of Regional Development to entrust tasks in support of projects co–financed under: Green Investment Scheme GIS, the Financial Instrument LIFE +, the Norwegian Financial Mechanism and the Financial Mechanism of the European Economic Area, fund pre–accession ISPA and the Cohesion Fund 2000–2006, the Sectoral Operational Programme Improvement of the Competitiveness of Enterprises (2004–2006), Environmental partnership Fund PHARE funds, partnerships DEPA (Denmark), SIDA (Sweden) and bilateral assistance funds in 1990–2008. The regional environmental protection funds have played a role in the absorption of assistance funds in the early years

of Polish membership in the European Union (SAPARD, ZPORR, PHARE), and in the budgetary period 2007–2013 (IE OP and Regional Operational Programmes) are strong institutional support and financial assistance to local government units, businesses, environmental organizations and many other beneficiaries. Therefore it needs to be remembered that both the number and value of projects significantly donated to local governments in the field of environmental protection.

## Environmental protection expenditure

The total expenditure on environmental protection is the sum of expenditure on fixed assets in environmental protection and the running costs. The largest item of expenditure for local government financing and co–financing of programs and projects implemented with the participation of EU funds were spent in the „Transport and communication" – 41.0%, while the second place went to „Public utilities and environmental protection" – 9.9%. In the structure of expenditure by departments of budget classification in 2015, as in previous years, the largest part of expenses in the following sections: „Education and upbringing" (35.8%), „Social assistance" (15.8%), „Public administration" (10.1%), „public utilities and environmental protection" (9.4%) and „Transport and communication" (8.7%). Thus the protection of the environment is a significant expense for Polish local governments.

The last decade has seen a rise in outlays on fixed assets in environmental protection. The size of these expenditures in year 2015 amounted to approx. 14.2 billion PLN and were higher by 31% than last year. There has been also an increase in fixed investment on water management, which reached the level of approx. 3.8 billion PLN and were higher by 24% compared to the previous year. In relation to GDP, expenditure on fixed assets for environmental protection persist for several years at the level of 0.6–0.8%, while in the case of water management are 0.2%. The share of expenditure on fixed assets in environmental protection and water management in the investments in the national economy stood out over the last few years, at approx. 5% for environmental protection (in year 2014 increased to nearly 6%) and slightly above 1% with water management (Environment, 2015, p. 43).

**Table 1.** Management of the communal environmental protection and water management funds by voivodships in 2015

| VOIVODSHIPS | Funds at the beginning of the year | Revenues | | | | Total funds | Total expenditures |
|---|---|---|---|---|---|---|---|
| | | total transferred by voivodship boards | due to payments and fines | | rother | | |
| | | | for removal of trees and bushes | other | | | |
| | in thousand PLN | | | | | | |
| **POLAND** | **272 022.2** | **647 085.3** | **173 747.0** | **455 142.3** | **18 196.0** | **919 107.5** | **602 551.8** |
| Dolnośląskie | 24 833.1 | 64 435.5 | 27 475.4 | 35 477.7 | 1 482.5 | 89 268.6 | 74 793.8 |
| Kujawsko– pomorskie | 9 231.0 | 30 634.1 | 6 133.4 | 23 913.8 | 586.8 | 39 865.1 | 30 055.7 |
| Lubelskie | 2 715.2 | 17 294.7 | 486.6 | 16 558.6 | 249.5 | 20 009.8 | 17 051.7 |
| Lubuskie | 6 624.0 | 11 623.5 | 1 692.2 | 9 747.7 | 183.7 | 18 247.5 | 13 584.3 |
| Łódzkie | 12 183.6 | 76 106.6 | 2 286.4 | 72 144.0 | 1 676.2 | 88 290.2 | 63 703.7 |
| Małopolskie | 13 079.4 | 30 888.1 | 5 623.4 | 25 211.8 | 52.9 | 43 967.5 | 34 791.7 |
| Mazowieckie | 94 788.1 | 109 902.7 | 64 135.8 | 43 124.1 | 2 642.9 | 204 690.8 | 90 204.6 |
| Opolskie | 5 739.7 | 15 257.7 | 2 007.7 | 13 061.2 | 188.8 | 20 997.4 | 12 314.3 |
| Podkarpackie | 14 194.5 | 14 373.3 | 2 423.3 | 11 735.7 | 214.3 | 28 567.8 | 19 578.4 |
| Podlaskie | 6 051.5 | 12 538.2 | 5 632.8 | 6 782.7 | 122.8 | 18 589.8 | 10 837.6 |
| Pomorskie | 15 224.3 | 45 255.5 | 13 810.3 | 24 277.2 | 7 168.1 | 60 479.8 | 37 939.2 |
| Śląskie | 30 330.7 | 95 736.4 | 24 606.0 | 69 978.4 | 1 152.0 | 126 067.1 | 93 611.7 |
| Świętokrzyskie | 4 955.3 | 14 012.6 | 1 543.6 | 10 784.2 | 1 684.7 | 18 967.8 | 11 755.6 |
| Warmińsko– mazurskie | 4 793.6 | 13 686.9 | 2 548.5 | 10 744.9 | 393.5 | 18 480.5 | 11 790.8 |
| Wielkopolskie | 18 760.5 | 58 585.5 | 3 548.0 | 54 785.3 | 252.3 | 77 346.0 | 49 096.0 |
| Zachodniopomorskie | 8 517.9 | 36 754.0 | 9 793.7 | 26 815.3 | 145.1 | 45 271.9 | 31 442.7 |
| **POLAND** | **232 407.4** | **72 511.7** | **69 788.6** | **181 341.8** | **34 469.6** | **12 032.7** | **316 555.7** |
| Dolnośląskie | 18 993.2 | 5 584.6 | 7 110.8 | 41 247.8 | 1 563.4 | 293.9 | 14 474.8 |
| Kujawsko–pomorskie | 6 937.9 | 1 484.3 | 4 076.8 | 16 855.3 | 641.4 | 59.9 | 9 809.3 |
| Lubelskie | 8 874.1 | 837.1 | 3 707.4 | 3 157.5 | – | 475.6 | 2 958.0 |
| Lubuskie | 5 530.1 | 780.7 | 1 088.0 | 4 616.2 | 815.8 | 753.5 | 4 663.2 |
| Łódzkie | 14 594.8 | 12 368.2 | 3 007.6 | 11 462.3 | 21 540.4 | 730.4 | 24 586.5 |
| Małopolskie | 9 905.1 | 5 893.0 | 3 826,7 | 12 485.2 | 2 673.1 | 8.6 | 9 175.8 |
| Mazowieckie | 43 225.1 | 5 663.1 | 12 241.0 | 27 143,3 | – | 1 932.0 | 114 486.2 |
| Opolskie | 3 561.6 | 2 811.1 | 1 013.2 | 4 872.0 | – | 56.5 | 8 683.1 |
| Podkarpackie | 8 486.0 | 360.5 | 1 722.1 | 4 797.2 | 4 159.3 | 53.3 | 8 989.4 |
| Podlaskie | 6 426.0 | 693.7 | 1 039.4 | 2 642.4 | 19.6 | 16.5 | 7 752.2 |
| Pomorskie | 15 694.5 | 3 851.3 | 8 144.4 | 7 297.7 | – | 2 951.3 | 22 540.6 |
| Śląskie | 43 936.1 | 19 479.0 | 7 436.6 | 20 116.6 | – | 2 643.4 | 32 455.4 |
| Świętokrzyskie | 5 905.0 | 1 639.5 | 1 936.9 | 1 971.1 | – | 303,1 | 7 212.2 |
| Warmińsko– mazurskie | 6 821.8 | 1 095.3 | 2 186.8 | 1 562.0 | – | 124.9 | 6 689.7 |
| Wielkopolskie | 23 529.2 | 5 759.1 | 7 186.8 | 9 882.7 | 1 164.3 | 1 573.8 | 28 250.0 |
| Zachodniopomorskie | 9 986.8 | 4 211.2 | 4 064.0 | 11 232.3 | 1 892.2 | 56.1 | 13 829.2 |

a Moreover, 2 538 958.9 th. PLN, from other sources than from environmental charges and fees, have been allocated for environmental protection.

Source: data of the Management Board of the National Fund for Environmental Protection and Water Management.

**Table 2.** Forms of financing from the environmental protection and water management funds in 2015

| FORMS OF FINANCING | Total | Wastewater management and protection of water | Protection of air and climate | Waste manager–ment | Other Romains |
|---|---|---|---|---|---|
| | in million PLN | | | | |
| **TOTAL** | **5 860.7** | **1 911.4** | **1 653.5** | **920.8** | **1 375.0** |
| Redeemable financing (loans, credits, consortia) | 2 827.5 | 1 018.4 | 930.0 | 635.3 | 243.9 |
| Non–redeemable financing (donations, grants, remissions) | 3 033.1 | 893.0 | 723.4 | 285.5 | 1 131.2 |
| THE NATIONAL ENVIRONMENTAL PROTECTION AND WATER MANAGEMENT FUND | | | | | |
| **TOTAL** | **2 587.3** | **604.9** | **696.1** | **544.8** | **741.5** |
| Redeemable financing (loans, credits, consortia) | 855.1 | 125.6 | 253.6 | 372.3 | 103.7 |
| Non–redeemable financing (donations, grants, remissions) | 1 732.1 | 479.2 | 442.6 | 172.5 | 637.8 |
| VOIVODSHIP ENVIRONMENTAL PROTECTION AND WATER MANAGEMENT FUNDS | | | | | |
| **TOTAL** | **2 580.5** | **1 043.4** | **839.6** | **298.4** | **399.1** |
| Redeemable financing (loans, credits, consortia) | 1 972.4 | 892.8 | 676.5 | 263.0 | 140.2 |
| Non–redeemable financing (donations, grants, remissions) | 608.1 | 150.7 | 163.1 | 35.4 | 259.0 |
| COUNTY ENVIRONMENTAL PROTECTION BUDGET | | | | | |
| **TOTAL** (Non–redeemable financing only) | **136.9** | **30.6** | **45.3** | **7.8** | **53.1** |
| COMMUNAL ENVIRONMENTAL PROTECTION BUDGET | | | | | |
| **TOTAL** (Non–redeemable financing only) | **556.0** | **232.4** | **72.5** | **69.8** | **181.3** |

Source: data of the Management Board of the National Fund for Environmental Protection and Water Management 2016.

A group of investors with the largest share of expenditures in the area of water management were budgetary units – 54%, the share of other groups, ie. enterprises and municipalities account for 27% and 19%. Budgetary units invest mainly in the flood control infrastructure, reservoirs and dams, regulation, development of rivers and mountain streams. In year 2015, as a result of the investment environment, were put into operation 57 industrial and municipal waste water treatment plants, ie. about 17 less than in 2013, with a total capacity of 51 thousand $m^3$/day.

In 2014 were put into operation 6.4 thousand. km of sewage discharge sewage (the same as in the previous year) and 657 km sewerage network for rain water (more than in 2013. approx. 3%). In terms of air protection there was put to use equipment to reduce dust pollution with a capacity of 32 thousand. tons/year (almost two–fold increase compared to 2013.) and neutralization of gaseous pollutants with a capacity of 15 thousand. tons/year (a significant decrease compare to year 2013) (Environment, 2015, p. 44–45).

## Conclusions *de lege lata* and *de lege ferenda*

Local government units in Poland have important tasks in the field of environmental protection. Naturally, all the action determinant will be financial funds, but they should be found for such an important issue, which is to protect the environment. This also applies to the issue of implementation with its own funds and other public funds. We should also be awared of the possibilities of financing the activities of the operational programs in the next EU financial perspective 2014–2020. Therefore, it is worthy to take care of the possibility of a smooth functioning of public administration in attracting external funds, including those from the European Union.

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# ECONOMIC SITUATION AND MUNICIPAL BUDGET INCOME OF FORESTRY TAX

The actual forestry tax is a relatively new development in the Polish tax system. It was introduced in 1991. It is one of the own revenues of municipalities. Budget revenues of municipalities in respect of forestry tax depend on the economic situation, as well as the degree of afforestation in the municipality. The aim of this publication is to present the economic impact on budget revenues of municipalities in respect of forestry tax.

JEL Classification Codes: **H1, H2, N1.**

**Keywords:** municipal budget, forestry tax, economic situation.

## Introduction

Municipalities exist in the Polish legal system as the basic unit in the three stage division of local government (Gawrońska, 2009, p. 27), and they perform a wide range of its own and commissioned task. To accomplish their tasks an adequate level of funding is required. Both the Constitution and individual laws provide public funds to local governments, according to their tasks (Konstytucja RP z dnia 2 kwietnia 1997, art. 167). One of the most important sources of income of municipalities include taxes and local fees (see ustawa z dnia 12 stycznia 1991 r. o podatkach i opłatach lokalnych, ustawa z dnia 15 listopada 1984 r. o podatku rolnym). Forestry tax belongs to the group of own revenues of municipalities and is qualified to own revenues of

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municipalities. Budget revenues from this tax allow municipalities to realize public tasks. The higher revenues, the more tasks municipality can realize. However, the budget revenues of municipalities in respect of forestry tax depend lastly on the economic situation as well as the degree of forestation in the municipality. This paper presents the revenues of municipalities in respect of forestry tax. The purpose of the authors was to present the economic impact on budget revenues of municipalities by the forestry tax over the past few years which has small significance for the fiscal budgets of local government.

## The economic cycle

All market economies are subject to economic cycles. Occurring cycles can be observed both in the developed as well as in developing countries. The economic cycle is associated with certain disorders which are varying to the scale and time of occurrence(Hall, Taylor, 2000, p. 23). They interact with different strength as well as a different delay on the economy. Globalization and the increasing interdependence between the systems are the factors which consequently result in greater transmission of disorders between the economies. Today in the literature, concerning the economic situation, there are many variations and interpretations resulting from the formation of economic cycles. The most common economic cycle is defined as repeated but not always regular, in terms of duration and amplitude, fluctuations of economic activity. In terms of classic the cyclical fluctuations consist of four successive phases: flowering, slow down (the crisis), the recession and the recovery (Kalinowska, 2016, p. 101–102). The figure 1 shows the phases of the economic cycle.

The flowering phase is the end in which the Gross Domestic Product (GDP), consumption, investment and prices reach the highest level. The unemployment rate is at a relatively low level. On the other hand the slowdown phase is described by the overproduction and therefore advantage of supply in comparison with the effective demand. This results with the decrease in the business volumes, but the rate of decline of certain quantities is different. During the recession phase the unemployment is increasing and decreasing as follows: production, employment, investment and demand. The last discussed phase is the phase of recovery, which is defined as a period of gradual growth in GDP, consumption, investment, employment and prices (Kalinowska, 2016, p. 101–102).

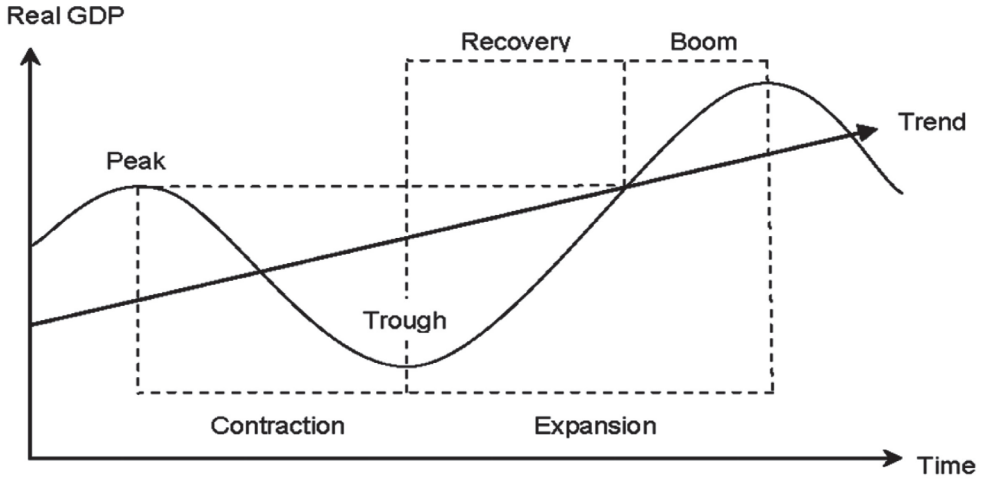


**Figure 1.** Phases of the economic cycle

Source: http://financialplanningandretirement.com/w/index.php?title=Business_cycles [Access: 20.11.2016].

More and more frequently the economic literature describes two phases of economic cycle instead of four mentioned above. Those two phases are: downward and growth. The downward combines phase of the crisis and the lag phase, the phase of growth combines recovery and prosperity (Kalinowska, 2016, p. 101–102).

The recent economic crisis was begun by the situation in the US economy and which was then transformed into a global economic crisis. Economies of many countries, including Polish, have entered then in a very difficult period for the transition. Because of the recession mostly affected were the public finances. Because of the deteriorating economic situation at that time the basic unit of local government, which is the municipality, was obliged to take appropriate measures to improve the financial income (Antkiewicz, Pronobis, 2005, p. 54).

Current economic cycles that occur in market economies tend to the growing synchronization. This means the simultaneous occurrence of turning points and phases of the cycle. Institutional changes in the global economy, which include the liberalization of international flows of goods and money, the system of exchange rates, as well as similar economic policies actually decide on increasing compliance between countries (Kalinowska, 2016, p. 107).

Present economic cycle is affected by a so–called flattening and therefore the amplitude of fluctuation is relatively small. Although the duration of the growth phase has been extended considerably while the low growth is reduced. In addition the amplitude of the whole cycle is positive (IMF, 2007, p. 67).

## Theoretical aspects of the forestry tax

The actual forestry tax should be regarded as a relatively new structure in the Polish tax system. It was introduced to the Polish tax system with changes in 1991 by means of the law on forests (see Ustawa z dnia 28 września 1991 r. o lasach).

A primary construction of the forestry tax underwent substantial evolution over time. Undoubtedly this was related to the need to implement changes in it. They were associated with both the overvaluation of the philosophy of the use of forests as well as the emergence of significant hazards which are eligible like illegal acquisition and wood trading, the lack of management plans of forests. Moreover the neglect of renewal and negative impact of weather conditions were the factors of conditions of Polish forests (http://daniny.wro24.com.pl/index.php/41-system-podatkowy-w-polsce/podatki/30-podatek-lesny).

The forestry tax is currently regulated by the Law on Forestry Tax stated on 30th October 2002 (see Ustawa z dnia 30 października 2002 roku o podatku leśnym). The law introduces the definition of forest and forestry activities. The Law states that the forest lands are classified in the register of land and buildings as forests. On the other hand the forestry activities, within the meaning of this Law, are owners or managers of forests in the area of forest protection, management, maintenance and expansion of resources, as well as forest plantations and acquisition of – with the exception of purchase –wood, trees, stumps, bark, pine needles, animals and crops together with sale of these products in its raw state (Ustawa z dnia 30 października 2002 roku o podatku leśnym, Art. 1).

The taxpayers are individuals, legal persons and organizations, including companies and unincorporated, who are: forest owners and possessors of forests which are owned by the State Treasury or local government state (Ustawa z dnia 30 października 2002 roku o podatku leśnym, Art. 2).

The forestry tax obligation of forests that remain the State Forests National Forest Holding ownership (called „State Forests") and belonging to the Agricultural Property of the State Treasury with no obligation to pay tax, belongs the organizational units of the Agricultural Property Agency and the „State

Forests". On the other hand, in the case when the forest is owned by spontaneous, then the tax liability belongs to the holder. However, if a forest is co–owned or it is in possession of two or more entities, the forestry tax must be paid by all co–owners or holders state (Ustawa z dnia 30 października 2002 roku o podatku leśnym, Art. 2).

The evolution of the Forest Law, and since 2002 the Law on Forestry Tax as well, primarily aimed to replace the rule of permanent professional production of wood with the principle of the greatest profitability – the principle of forest management covering the entire ecosystem and not just the stands. In this situation it has become necessary to take a legal protection of all forests regardless of the ownership (http://daniny.wro24.com.pl/index.php/41-system-podatkowy-w-polsce/podatki/30-podatek-lesny).

The basis of forestry tax taxation is a forest area, expressed in hectares, resulting from the register of land and buildings (Etel, 2009, p. 75). The forestry tax of 1ha, for a certain tax year calculated from the cash equivalent of 0.220 cubic meter of wood. The price is calculated from the average price of wood obtained by the forest inspectorate in the first three quarters of the year preceding the tax year. For the forests included in nature reserves and national parks forestry tax rate is reduced by 50%. The average selling price is determined by the state of the President of the Central Statistical Office, which is published in the Official Journal of the Republic of Poland „Polish Monitor", within 20 days after the end of the third quarter. Additionally the council of a municipality has the opportunity, by means of its resolution, reduce the amount representing the average selling price of wood as a basis for forestry tax calculation in the area of the municipality (http://www.finanse.mf.gov.pl/podatki-i-oplaty-lokalne/podatek-lesny).

Exemptions from the forestry tax are (ustawa z dnia 30 października 2002 roku *o podatku leśnym*, Art. 7):

a) forest with trees at the age up to 40 years,
b) forests individually registered in the register of monuments,
c) ecological areas,
d) higher education institutions, colleges and military high schools,
e) public and private schools, institutions, training institutions, teacher training centers and the authorities conducting these schools,
f) Polish Academy of Sciences,
g) conducting workshops for the disabled in the area of forest mentioned in the decision to grant the status of a protected work with the exception of forests that are held by subsidiaries of non conducting a workshop,
h) research and development centers.

The tax liability of forestry tax arises on the first day of the month following the month in which the obligation was established. From the other hand the tax liability expires at the last day of the month in which the obligation is ceased. However, if the tax obligation arose or expired during the tax year, the forestry tax for the year is determined in proportion to the number of months in which there was an obligation. The tax authority competent in matters of forestry tax is the mayor (mayor, president of the city) (ustawa z dnia 30 października 2002 roku o podatku leśnym, Art. 5–6).

Forestry tax for the tax year from individuals is made by decision of the tax authority with jurisdiction over the forest location. This tax is payable in installments proportional to the duration of the tax obligation, in terms of 15 March, 15 May, 15 September and 15 November of certain fiscal year. When the tax obligation expires during the fiscal year or changes in the law occurs the tax authority changes its decision of establishing the tax. On contrary the organizations, including companies and unincorporated units of the State Forests, as well as the organization units of the Agricultural Property Agency of the Treasury are obliged to (ustawa z dnia 30 października 2002 roku o podatku leśnym, Art. 6):

a) submit, not later than 15 January, to the tax authority right to its location of forests, declarations of forestry tax drawn up on the form, and if the tax obligation arose after that date – within 14 days from the date of occurrence of this obligation,
b) adjust the declaration, if changes referred to in art. 5 paragraph. 4 occurs, within 14 days from the date when these changes are applicable,
c) pay money in installments, proportional to the duration of the tax, to the account of the budget of the relevant municipality, for each month not later than 15th day of month.

Forestry tax payment is possible by bank transfer or – in the case of individuals – cash – if the collection of the tax is made by the mayor for example. For individuals the forest tax is collected along with the agricultural tax and property tax as the total monetary obligation that is delivered in the form of a demand for payment (Rozporządzenie Ministra Finansów z dnia 21 grudnia 1999 r. w sprawie łącznego zobowiązania pieniężnego).

## Budget revenues of municipalities in respect of the forestry tax

Before the data on budget revenues of municipalities in respect of the forestry tax will be presented we should refer to the economic situation in Polish

economy. The basic indicator showing the economic situation in country is the Gross Domestic Product. The condition of the Polish economy between the years 2005–2015 is presented by the following statistics.

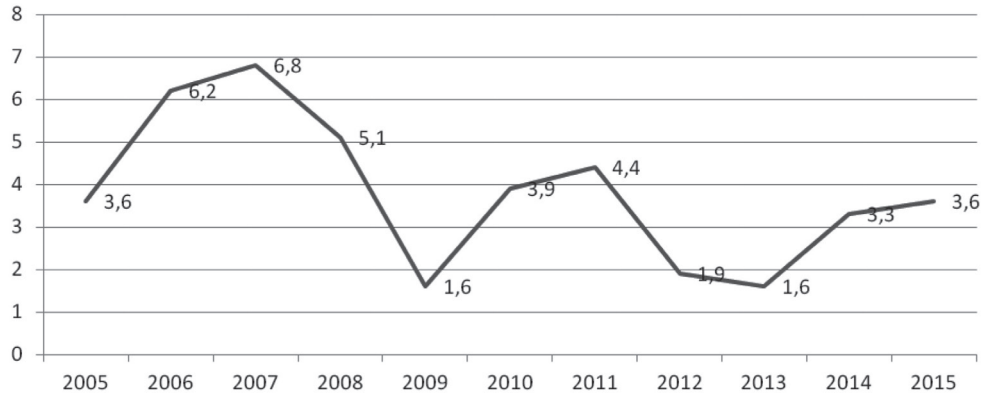


**Figure 2. Evolution of Polish GDP between 2005–2015**

Source: Self study on basis of: Roczne wskaźniki makroekonomiczne, Główny Urząd Statystyczny, http://stat.gov.pl/wskazniki-makroekonomiczne/ [access 20.06.2016].

Based on the above data it should be stated that in the years 2005–2007 Polish GDP has grown. As indicated by the chart since 2007 the downward trend of GDP is visible, which means that the Polish economy felt the impact of the global economic crisis. In 2009 it recorded weak growth of GDP when its growth rate in comparison to the previous year dropped by 3.5 percentage points. This is a significant decline in GDP growth, although GDP growth in Poland was visible, but it was a very slow rise. Following an increase in GDP growth observed during years 2010–2011, in 2012 Poland felt the economic slowdown resulting from the global economic crisis. From 2013 again the growth of Polish GDP is visible. The state of the economic situation affects the country as a consequence of public finances.

Long–term economic slowdown in Poland in year 2008–2009 was mainly affected the local government units and its own revenues, regardless of the tax system that feed the local budgets. In the case of municipal budgets the tax revenues differently react to the economic slowdown (Sońta, 2013, p. 26).

The forestry tax is an income of municipal budgets. The income from the budget enable the municipalities to realize public tasks. The following table shows the value of income to budgets of municipalities in respect of forestry tax in the period considered.

**Table 1.** Number of the for estry tax In years 2006 – 2015 (in thousands PLN)

| Year | 2006 | 2007 | 2008 | 2009 | 2010 | 2011 | 2012 | 2013 | 2014 | 2015 |
|---|---|---|---|---|---|---|---|---|---|---|
| Forestry tax | 150 214 | 155 708 | 173 374 | 181 011 | 163 747 | 186 051 | 224 406 | 225 461 | 207 207 | 226 822 |

Source: Self–study on basis of http://www.finanse.mf.gov.pl/budzet-panstwa/finanse-samorzadow/opracowania [access 03.07.2016].

Based on the above data it should be noted that municipalities' budget revenues of from the forestry tax are growing in the years 2006–2009. In 2010 it is visible their decline, which could have a relationship with the economic slowdown that took place in Poland. Since 2011 again growth is visible. Only in 2014 decline is observed. In 2006 budget revenues from the tax were 150 214 thousand PLN and in 2015 it have risen to 226 822 thousand PLN.

The considerations above are graphically shows at figure 3.

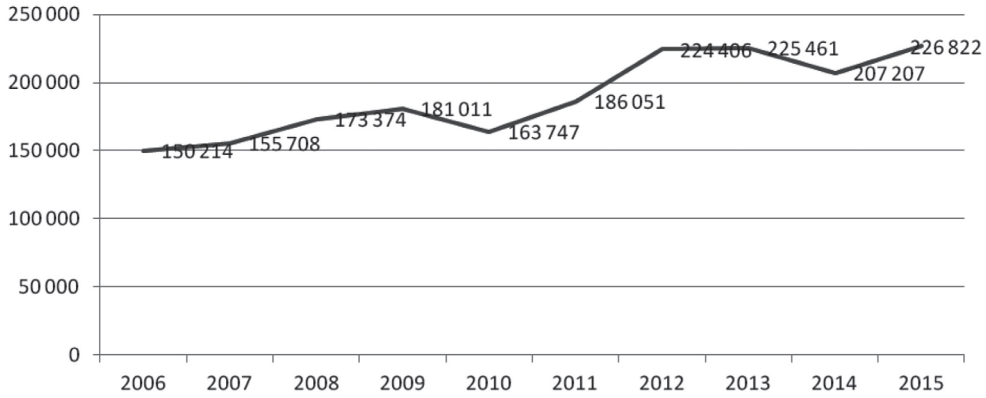


**Figure 3.** The forestry tax Mount In years 2006–2015 (in thousand PLN)

Source: self–study on basis of Graph 1.

Budget revenues of municipalities from the forestry tax had an upward trend. Their dynamic growth was observed in the years 2011–2013. In contrast, a significant decrease in revenues from this source was recorded in 2010 and 2014.

**Table 2.** The for estry tax dynamic in years 2007–2015 (in %)

| Year | 2007 | 2008 | 2009 | 2010 | 2011 | 2012 | 2013 | 2014 | 2015 |
|---|---|---|---|---|---|---|---|---|---|
| Forestry tax | 104 | 111 | 105 | 91 | 113 | 120 | 101 | 92 | 109 |

Source: self study on basis of Table 1.

On the basis of the data in the table above it is clear that the budget revenues of municipalities from the forestry tax in 2008 compared to previous year increased by 11%. In contrast their largest increase took place in 2012 compared to the previous year and was 20%. In 2010 a decrease of revenues from this tax was noted in comparison to 2009 by 9%. From the other hand in the 2014 a decrease in revenues was visible as well, in relation to 2013, by 8%.

Extremely important is the participation of the forestry tax in municipalities budget revenues. But also important is to show the development of their own revenues in the analyzed period, as shown in the chart below.

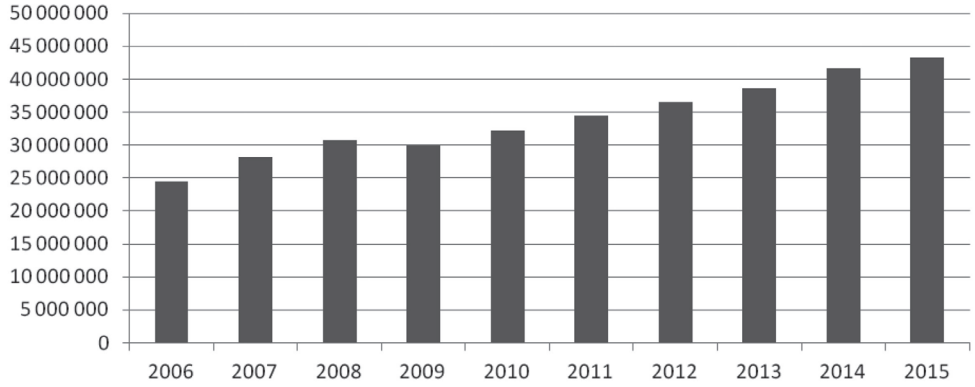


**Figure 4. Municipal revenues in years 2006–2015 (in thousand PLN)**

Source: self–study on basis of http://www.finanse.mf.gov.pl/budzet-panstwa/finanse-samorzadow/opracowania [access 03.07.2016].

Municipal revenues in analyzed period increased steadily. Only in 2009 it is visible their decline which was related to the economic slowdown that took place in Poland. The fact that the municipal revenues growth is positive because the disposal of the municipality can be spend on a statutory public tasks.

**Table 3. The share of the forestry tax income of municipalities in years 2006–2015 (in %)**

| Year | 2006 | 2007 | 2008 | 2009 | 2010 | 2011 | 2012 | 2013 | 2014 | 2015 |
|---|---|---|---|---|---|---|---|---|---|---|
| Share | 0.6 | 0.6 | 0.6 | 0.6 | 0.5 | 0.5 | 0.6 | 0.6 | 0.5 | 0.5 |

Source: self study on basis of http://www.finanse.mf.gov.pl/budzet-panstwa/finanse-samorzadow/opracowania [access 03.07.2016].

The share of the forestry tax income of municipalities in the analyzed period is varying from 0.5% to 0.6%. This is not a high proportion but plays an essential role in financing public tasks that must accomplished by a certain municipality.

## Summary

The importance of the forestry tax to the budget of a municipality depends not only on the level of forestation but also on the state of the economy. During the global economic crisis that erupted in the United States, Poland suffered from its negative consequences. In general, as shown by statistics, revenues from that tax are only a small fraction of total income. However it should be kept in mind that municipalities have a wide spectrum of tasks that are required to implement and therefore budget revenues from the forestry tax are an important source of their income.

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# ADVERTISING FEE AS A SOURCE OF THE COMMUNE'S OWN REVENUES

The advertising fee was introduced on the list of commune's own revenues in 2015, and it has been practically collected since 2016. The commune council itself, by means of a resolution, decides to introduce this local public levy. The main elements of the legal structure of the advertising fee are specified in the Act on Local Taxes and Fees, i.e. the object of the fee, entities liable to pay the fee, the maximum fee rate for each day, the exemptions from payment. The commune council is entitled to determine the advertising fee rates for the commune, however not higher than those set out in the Act, and also to introduce additional exemptions and the conditions of its collection by the collectors. The advertising fee consists of a fixed part, which is the lump–sum amount regardless of the surface area of the advertising board or device serving for the advertisement display, and a variable component depending on the surface area of the advertising board or device serving for the advertisement display.

JEL Classification Codes: **K34, H71.**

**Keywords:** local fee, advertisement, advertising boards, advertising devices, landscaping.

## Introduction

Spatial governance with emphasis on environmental planning, taking into account the landscape value, is one of the tasks of a commune. Pursuant to Article 2 point 1 Spatial Planning and Land Development Act (2003), „spatial governance" means land development resulting in creation of a harmonious space with regulated relations, taking into account all conditions and requirements: functional, socio–economic, environmental and cultural, as well as the aesthetics and composition. One of the instruments supporting spatial

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governance is a public fee charged on advertisement located in public space. The aim of this paper is to present the legislator's motivation for introducing advertising fee on the list of the commune's own revenues and conduct the analysis of the applicable legislation regulating the subject of this fee and regarding charging and collection of this fee. The basic research method shall be the method of legal dogmatics, supplemented with analytical and empirical methods. The scope of the survey included the current legislation, legal academics and the decisions of the regional accounting chambers regarding the resolution–making activity of the commune councils with reference to introduction of advertising fees.

## Reasons for introducing the advertising fee

Advertising fee was included on the list of the commune's own revenues in 2015. In the first place, the Act of January 12, 1991 on taxes and local fees (Act of April 24, 2015) was duly amended (Consolidated text: Dz.U. of 2016 item 716 as amended, hereinafter referred to as TLFA) by setting out the legal construct of the advertising fee. Amendments to the Act on Local Government Revenues of November 13, 2003 (Consolidated text Dz.U. of 2016, item 198 as amended) were made only on November 7, 2015, listing advertising fee among the commune's own revenues (Act of 25 September 2015).

The origin of advertising fee can be sought in the tax on posters and markers valid in 1923–1945[2]. At that time, the municipalities were entitled to collect the tax on brand signatures and advertisements – also the ones placed on buildings, posts, kiosks and similar facilities, as well as the ones handed out – in a similar manner (the so–called tax on posters and markers)[3]. Moreover, the municipalities had the right to collect the tax on advertisements copied by print, mechanically or in any other similar manner (the so–called

[2] The structure of this tax is set out in Article 17 Act on temporary regulation of the communal finances of August 11, 1923 (consolidated text Dz.U. of 1936 No. 62 item 454 as amended).

[3] The tax on posters was charged on: inscriptions, advertisements, posters and markers of industrial and commercial enterprises and institutions of commercial nature, all personal commercial activity (e.g. doctors, lawyers, engineers), artisan and handicraft shops. The tax on markers was levied on: markers, company emblems (e.g. An artificial shoe hung in front of the shoestore, glasses or binoculars in front of an optician's, cigar or cigarette in front of a tobacconist, etc.), all advertising display cases with objects inside (shoes, furs, metal products, textiles, etc.), lanterns and lamps, provided that they bear advertising labels.

tax on advertisements)[4]. The rural communes could collect the tax on posters and markers and tax on advertisements outside the municipality boundaries. The advertisements published in magazines issued no less frequently than once a month, official announcements, election announcements for public representation, announcements on public hearings and assemblies and advertisements made by persons seeking jobs were exempted from the tax.

Introduction of advertising fee was connected with the obligations of the Republic of Poland regarding the more efficient landscape protection. The member states of the Council of Europe acknowledged the need to protect the landscape and executed The European Landscape Convention on October 20, 2000 in Florence, ratified by Polish President on June 24, 2004 (Government Statement of 21 September 2005). The provisions of the Convention have remained valid since January 1, 2005 (The European Landscape Convention, 2005). The signatories of the Convention undertook to implement the solutions serving landscape protection, including the application of special measures. The provisions of the Convention stipulate that the „landscape" is an area whose character is the result of actions and interactions of human or natural factors. „Landscape protection" means actions taken in order to maintain and preserve significant or characteristic features of landscape so as to direct and harmonize the transformations resulting from the social, economic and environmental processes.

Statutory definition of landscape reflects on the values expressed in the European Landscape Convention. Pursuant to Article 2 point 16e „Landscape" is a space subject to human perception, containing natural formations or the creations of civilisation, shaped as a result of an impact of natural forces or anthropogenic activity. Article 2 point 16f SPLGA also defines „landscape priority", which is the landscape particularly valuable to society due to its natural, cultural, historical, architectural, urban, or rural or aesthetic and scenic values, and as such demands preservation or specification of the terms and conditions of its development.

The objects placed in public space having impact on the landscape are, among others, the following: street furniture, advertising boards and devices and fencing. In order to ensure the effectiveness of the rules established by means of local law for such facilities, the supporting instruments were introduced, including an advertising fee. This fee should provide the communes

[4] Tax on announcements was levied on all advertisements that were printed, copied mechanically or in a similar manner.

with a source of additional revenues necessary to finance the actions undertaken to organize public space. Moreover, it was assumed that the obligation to pay advertising fee should be independent of any prospective property tax on advertisement carrier. Protection of the landscape should also benefit from the more strict rules for locating advertisements (Justification of the bill on amendments to some acts in connection with the reinforcement of the landscape protection tools – print 1525 Sejm seventh term).

In the period before the introduction of the advertising fee the boards and devices were the subject of real estate tax. Free–standing advertising device physically attached to the ground in a permanent manner qualified as a building (Dudar, 2012, p. 20), even if it had only been built for temporary use. Advertising boards were subject to real estate tax, regardless of whether they were part of the land, and thus permanently affixed (Dowgier, 2013, p. 37–41). If the boards were permanently attached to the ground within the meaning of the Civil Code, the tax was charged to the land owner. If they were temporary building structures, the tax was borne by the owner of the advertising boards and the owner of the land paid land tax. If the boards were located on the grounds of the State Treasury or the local government units, the land tax and the tax on the advertising boards were charged to the holder of the land (Etel, 2008, p. 71; Etel & Popławski 2008, p. 11).

## Advertising boards and devices as a subject of advertising fee

Pursuant to Article 17a paragraph 1 TLFA, the commune council may introduce the advertising fee on the placed advertising boards or devices. The quoted tax law does not define the object of advertising fee, but in this respect refers to the provisions of the Law on Spatial Planning and Development. Pursuant to Article 2 point 16b SPLGA „advertising board" is a material object designed or used for display of the advertisement, together with its structural elements and fixings, with a flat surface serving for display of the advertisement, specifically advertising banner, the advertisement stuck to the windows of the buildings, the advertisement placed on a scaffold, fence or the equipment of the construction site, excluding small items of everyday use utilized for their intended purpose.

The statutory definition of the „advertising device" is constructed similarly to the definition of the „advertising board". Pursuant to Article 2 point 16c SPLGA, „advertising device" is a material object designed or used for advertisement display together with its structural elements and fixings, different from advertising board, with the exception of small everyday items used for

their intended purpose. The difference between an advertising board and advertising device is actually reduced to a single term, namely the board has a flat surface to display advertising. Advertising devices, however, have surfaces other than flat used for advertisement display. The legislator specifies, however, that there are two types of advertising media falling into one common category, which is a „marker." According to Article 2 point 16d SPLGA, the marker is the advertising board or the advertising device providing information on the activities carried out on the property the board is located on. Thus, a marker is a qualified form of advertising board (Nowak, 2015, p. 4).

Adoption of the statutory definitions of an advertising board, an advertising device and a marker means that municipalities cannot repeat the provisions of statutes, ratified international agreements and regulations in the local legal instruments. This prohibition stems from § 118 in connection with § 143 of the Annex to the Regulation on „Principles of Legislative Technique". Violation of this prohibition and introduction of the statutory relations to the resolution invalidates these provisions. Moreover, making changes to the statutory provision and regulating of certain issues in a way different than in the Act is the violation of law. This means that the generally applicable law violates the relevant extent, not only the municipal council regulates once again what has already been regulated in the source of universally binding law, but also modify the statutory provision by the executive act of a lower order, which is possible only within clearly provided statutory authorization (Supervising authority resolution by the Westpomeranian Voivode, 2016).

A board or a device might be considered „advertising" only if they are designed for or serve the purpose of advertising display. The Act on Local Taxes and Fees contains a reference to the definition of advertising adopted in Article 2 Section 16a SPLGA. According to this provision, advertising is dissemination of information, in any visual form, to promote a person, company, products, services, enterprises or social movements. The adoption of such a wide scope of the definition of advertising in order to establish that a particular board or device is used for its display resulted in need to amend the existing definition of advertising formulated in the Act on Public Roads (Act of March 21, 1985).

Before the amendment of the Act on Public Roads, the advertisement, within the meaning of its provisions, was a carrier of visual information in any material form, together with the structural elements and fixings, placed in the field of view of the road users and not a road sign under the provisions regarding signs and signals, nor a sign informing about the public utilities set by the commune. Since the amendment to the Act, i.e. September 11, 2015,

pursuant to the provisions of Article 4 Section 23 Act on Public Roads, the advertisement has been considered to be an advertising board or device placed in the user's field of view, within the meaning of the Act on Spatial Planning and Development, as well as any other medium of visual information, together with its structural elements and fixings, not a road sign (Specified in the provisions of the Minister of Infrastructure and Internal Affairs and Administration Regulation on road signs and signals: Dz.U. No. 170, item 1393 as amended) set by the commune informing about the facilities located along the road, including public utilities, nor a sign informing about the form of monuments protection or information board naming the forms of nature conservation[5].

Free–standing boards permanently affixed to the ground and the advertising devices are non–building structures, pursuant to the Building Law Act of July 7, 1994 (Consolidated text Dz.U. of 2016, item 290 as amended). The works directly related to „permanent" elements of a building, e.g. permanent installation of advertising boards, are the construction works (Szostak 2010, p. 8). The advertisement is permanently affixed to the ground, despite the fact that the foundation on which it was placed is not even partially located below the ground level. The feature of a permanent fixture to the ground means setting the foundation of the object permanently enough to provide its stability and the ability to counteract external factors which could destroy it or cause a shift or displacement to other position. Whether or not the advertising device is permanently affixed to the ground does not depend on the method of binding with the ground, but whether the size of a specific device, its design, purpose and safety considerations require such permanent binding with the ground (Decision by Voivodship Administrative Court in Gdańsk, 2014).

Pursuant to Article 17a paragraph 5 TLFA, the exemptions from the obligation to pay advertising fee have been introduced. The fee shall not be charged if the boards or advertising devices:

- are not visible from public space (i.e. do not fulfil its basic function, namely transmission of specific information);
- are markers (as long as the marker complies with the terms and conditions of setting street furniture, advertising boards and devices and fences); in practice, this provision may be a source of many interpretative doubts, as – according to the definition formulated in the Act on Spatial Planning and Development – „a marker" is an advertising board or device providing

[5] They are placed on the edge or in the vicinity of the forms of nature protection, e.g. national parks, nature reserves, landscape parks – cf. Article 115 of the Act of April 16, 2004 on Environmental Protection (consolidated text Dz.U. of 2016 item 2134 as amended).

information on the activities carried out on the property which the board or the device is located on. However, it may be assumed that the exemption from payment of the advertising fee does not cover the advertising boards or other advertising devices, thus jointly meeting two criteria, i.e. not informing about the activities carried out on the property and not located on the property where such activity is carried out;
- are the realization of the obligation imposed by the law;
- serve solely the purpose of dissemination of information (permanently commemorate a person, institutions or events as well as provide information of religious nature, connected with the activity of churches or other religious associations, provided that the board or the advertising device are located within the areas utilized as places of worship and religious activities or cemeteries).

## Terms and conditions of fixing advertising boards and devices

The provisions of Article 17a paragraph 1 and 2 TLFA stipulate that introduction of the advertising fee is only the right and not an obligation of the commune council. In this sense, it is a public levy whose introduction is subject to decision of the commune council who uses the constitutionally and statutorily guaranteed power to levy. Therefore, it is necessary to take an appropriate resolution by the commune council to introduce advertising fee. However, it is not necessary to adopt a resolution in which the commune council is to abandon the intention to introduce the advertising fee in the area of the commune. However, such unnecessary items may be found in the content of resolutions adopted by the commune councils (E.g. § 3 Resolution of Wisła Town Council, 2016).

The advertising fee may refer only to the already fixed advertising boards or devices, i.e. those that were actually located in certain places (areas), to which the terms and conditions of fixing street furniture, advertising boards and devices and fencing apply.

The entity authorized to establish such terms and conditions, pursuant to Article 37a SPLGA, is the Commune Council, which shall adopt a resolution in the form of the act of local law for that purpose (Decision by Voivodship Administrative Court in Szczecin, 2016). The resolution establishes the terms and conditions of situating the street furniture, advertising boards and devices and fences, their size, quality standards and the types of building materials used for manufacturing them. This resolution (the so–called advertising resolution) should be separate from the resolution on the local spatial

management plan having a different scope defined by Article 15 paragraph 2–3 SPLGA (Supervising authority resolution by the Silesian Voivode, 2016; Supervising authority resolution by the Westpomeranian Voivode, 2016). As far as markers are concerned, the advertising resolution refers to the terms and conditions of their location, size and number of signs that can be placed on the property by the entity conducting business activity on its premises. In addition, the commune council may, by means of this resolution, prohibit situating the fences and advertising devices, except for the markers.

The advertising resolution applies to the entire area of the commune excluding the closed areas established by bodies other than the minister responsible for transport. The resolution discussed may, however, provide different regulations for different areas of the commune, clearly defining the boundaries of these areas. In this case, the advertising resolution may include a graphic appendix with a description, clearly specifying their boundaries. The resolution should establish the terms and conditions and the term for the adjustment of the street furniture, fences and advertising boards and devices existing on the date of the resolution's entry into force to the prohibitions, terms and conditions set out therein, not less than 12 months from the date of its entry into force.

Advertising resolution can be taken by the municipal council only following conducting consultation in a manner specified in Article. 37b SPLGA (Supervising authority resolution by the Pomeranian Voivode, 2017; Supervising authority resolution by the Pomeranian Voivode, 2016). Due to the potentially significant impact of the advertising resolution on the rights of the proprietors, the established procedure of its adoption is referring to the manner of adopting the local spatial management plan. Before adopting the advertising resolution the municipal council adopts a resolution on the preparation of the draft advertising resolution by the commune head (mayor, city president). The commune head (mayor, city president) shall immediately:

- announce the information about adopting the resolution on the preparation of the advertising resolution by the municipal council,
- draw up a draft advertising resolution,
- consult the regional director for environmental protection, the competent authority of the National Fire Service and the province marshal of the draft advertising resolution (if no opinion is made within one month from the date of receipt of the draft resolution, the requirement to consult is deemed to be fulfilled),
- agree upon a draft advertising resolution with the provincial conservation officer (in terms of infrastructure and land development) and with the

minister responsible for the matters of health (in terms of management of the health resort protection areas); the absence of statement within one month from the date of receipt of the draft resolution shall be deemed as the agreement on the wording of the submitted draft,

– announce in the local press and by the means of announcement, and as is customary in the given area, the exposure of the draft advertising resolution for the public review at least 7 days prior to the exposure and expose this project to the public for the period of at least 21 days (collect the comments on the draft resolution at the time of the exposure and for the period of 14 days following the end of the exposure period).

The commune head (mayor, city president) shall immediately consider the remarks submitted by the aforementioned entities and establish a list of remarks that have been declined. The municipal council adopting the advertising resolution simultaneously decides how to respond to comments declined by the commune head (mayor, city president).

Pursuant to Article 37c SPLGA provisions of this Act relating to advertising do not apply to dissemination of information solely serving the purpose of permanently commemorating a person, institutions or events as well as the information of religious nature, connected with the activity of churches or other religious associations, provided that the board or the advertising device are located within the areas utilized as places of worship and religious activities or cemeteries).

The municipal council, by means of a resolution specifying the terms and conditions of situating advertising boards and devices is obliged to observe the provisions of separate laws regulating the placing or prohibitions on placing such boards or devices in specific locations. In this context, the provisions of the Old Monuments Law can be indicated (Act of July 23, 2003). Pursuant to the Article 17 section 1 point 3 OML, prohibitions and restrictions may apply to the cultural park[6] or parts thereof, with regards to the placement of boards, captions, advertisements, and other characters not related to the protection of the cultural park, with the exception of road signs and signs related to the protection of public order and security. The commune council cannot therefore encumber e.g. the managers of the properties located

[6] Cultural park is a form of cultural heritage protection and pursuant to Article 16 Old Monuments Act it can be created on the grounds of a resolution of the municipal council, following consulting the provincial conservator, in order to protect the cultural landscape and preserve the outstanding landscape areas with historical monuments characteristic for the local building and settlement tradition.

within the cultural park's boundaries with the obligation to ensure that the signs or advertising media located on the wall of the building, occupied no more than a certain part of this wall. The prohibition or restriction regarding the placement of boards, captions or advertisements shall not be understood as an obligation to provide its proper volume (area) (Decision by Voivodship Administrative Court in Wrocław, 2006).

Pursuant to Article 19 section 1b Old Monuments Act, the resolution specifying the terms and conditions of locating the street furniture, advertising boards and devices and fences the following are taken into account in particular: protection of immovable monuments entered in the register and their environment; protection of other historical monuments located in the municipal register of monuments; conclusions and recommendations of the audits as well as the landscape parks conservation plans. Pursuant to Article 36 section 1 point 10 Old Monuments Act, it is required to obtain a permit to place advertising boards or devices on the monument entered in the register from the provincial conservator. Such permit is also required to place advertisements within the boundaries of the city entered into the register of monuments within certain limits (Decision by Voivodship Administrative Court in Kielce, 2013). The decisions regarding such permit are issued within the framework of the so–called administrative discretion. The evaluation within the discretion of the authority whether the investor's intention can obtain the consent should be made taking into account the realities of the particular case, including the condition of the monument and the manner of current use and utilization (Decision by Voivodship Administrative Court in Szczecin, 2008).

## Entities obliged to pay advertising fee

The limits for advertising fees were specified in Article 17a section 3 and 4 TLFA. The advertising fee is charged on:

- the owners of real estate or buildings;
- perpetual usufructaries of land;
- spontaneous holders of the real estate or buildings (the assessment whether the legal entity is a spontaneous holder should be based on establishing physical power over the object and establishing the will to exercise the governance for own benefit corresponding to the right to property, regardless of the legal title) (Bieniek & Pahl, 2011, p. 32);
- holders of real estate or parts thereof, or of building structures or parts thereof owned by the State Treasury or local government units, if the tenure results from an agreement with the owner, the Agricultural Proper-

ty Agency or from another legal title, or is without legal title, if there are advertising boards or devices on those properties or building structures, regardless of the fact if the advertisement is displayed on this board or device;
- co–owners or co–holders of real estate or buildings where an advertising board or device is located (in such case the obligation to pay advertising fee is borne jointly and severally by all co–owners or co–holders).

The personal scope of the obligation to pay the advertising fee is determined similarly as in the case of the objective limits of the property tax. This solution is not accidental solution as there are certain relationships between those public levies. Pursuant to Article 17a section 6 TLFA, the amount of the property tax paid on the advertising board or device shall be credited to the advertising fee due on that advertising board or device. The property tax paid will be credited partially (in a situation where the tax amount is lower than the amount of the advertising fee) or in full (if the amount of public levies are equal). The mode of the reimbursement of the specified amount of property tax, shall the tax amount be higher than the amount of the advertising fee, was not introduced. Neither was introduced the settlement of a positive difference in subsequent tax years, due to the fact the property tax is charged in a given calendar year and only for the months the tax liability existed for.

The legislator does not introduce a condition pursuant to which the property tax paid towards the payment of the advertising fee could be credited only in the case of the same entity being obliged to pay each of the aforementioned public levies. They may be, therefore, different entities obliged to pay those public levies. No provision has been made to credit the other tax paid which encumbers the property holding special status (e.g. agricultural or forestry tax) towards the payment of advertising fee. Therefore, it can be concluded that the legislator significantly differentiated the rights of the owners (holders) of different real estates (agricultural, forestry, other).

## The structure of advertising fee

Pursuant to Article 17b advertising fee consists of a fixed part and a variable part. The use of the conjunction „and" in the quoted provision of the Act indicates that in the event of introduction of the advertising charge by the commune council, it must be composed of two parts. The commune council therefore cannot accept the structure of advertising fee limited to only one part of the said Act. The fixed part of the fee is a flat rate regardless of the surface area of the advertising board or device serving as display for the

advertisement. The variable part of advertising fee depends on the size of the surface of the board or device serving the purpose of advertising display. Shall the shape of the advertising device prevent the determination of the surface area for advertising display, the fee amount shall depend on the surface area of the side of a cuboid circumscribed around the device.

Each part of the advertising fee is calculated according to the daily rate applicable in a given municipality. The fixed part is calculated taking into account the lapse of days during which the board or the device will be placed in a specified public space. The variable part of the advertising fee is calculated taking into account not only the number of days the board or advertising device is located in the public space, but also considering the surface area intended for advertising display (Nowak, 2016, p. 274).

## The scope of power of the communecouncil regarding the advertising fee

In addition to the powers of the municipal council to introduce the advertising fee on its territory already discussed above, and thus a fundamental competence in terms of supplementing the directory of the local public levies, the municipal council also holds other rights directly related to the advertising fee. In general, these rights can be divided into two categories. The first refers to the possibility of shaping the amount of the encumbrance due to advertising fee, while the second deals with the different technical and registration conditions related to the dimension of advertising fee.

The list of these powers of the municipal council was adopted in Article 19 TLFA, and their implementation requires the adoption of a resolution having the status of a local act of law. The commune council specifies the rules regarding charging and collection as well as the payment dates and amount of advertising fee rates, whereas the rate of the fixed part of the advertising fee in 2017 shall not exceed PLN 2.45 per day, while the rate of the variable part of the advertising fee may not exceed PLN 0.20 per 1 $m^2$ surface area of the advertising board or device serving as the advertisement display daily. These are the maximum rates and the commune council may by means of a resolution set the rates at the same level or in the amount lower than the statutory limit. The content analysis of the selected resolutions adopted by the commune councils shows that in 2017 both the maximum advertising fee (E.g. resolution of Kobylnica Commune Council, 2016; Resolution of Baranów Commune Council, 2016), as well as at fee in the amount significantly lower than the statutory limit (e.g. a fixed part in the amount of

PLN 1.50 per day, and a v; ariable part of PLN 0.15 per 1 $m^2$) were set for 2017 (Resolution of Ciechanów Municipality Council; 2016).

Pursuant to Article 19 point 4 TLFA the commune council is entitled to differentiate the advertising fees rates taking into account the location and the size or type of the advertising board and device. The legislator does not, however, enumerate this power of the commune council in Article 20b or Article 20c TLFA regulating the necessity to comply with the regulatory standards for granting public assistance. The advertising fee is associated with the conducted business activity and the differentiation of the amount of the rates on the basis of criteria such as location or type of advertising board or device may possibly result in differentiation of the situation of different entities in a comparable factual and legal situation (Dzięgiel–Matras, Kmieciak & Zenc, 2015, chapter VIII). The absence of proper regulation in this regard is a significant error of the legislator.

Similarly, as in the case of the other local fees (e.g. fair fee, local fee), the commune council may, by means of a resolution, order the collection of the advertising fee and specify the collectors and the remuneration for the collection. Using the powers vested in this regard, the commune council should individualize tax collectors, by specifying (identifying) their name or the business name directly in the resolution. Specifying the collectors by the resolution of the commune council does not need to be preceded by the agreement of the entity to accept the associated duties (Decision by Voivodship Administrative Court in Olsztyn, 2015). Adopting a resolution, pursuant to Article 19 paragraph 2 of TLFA, the commune council is not authorized to determine how to establish a civil law relationship with the collectors, the manner of collecting and recording the fees, the indication of the place of payment of the charged fees or the date of payment of the remuneration (Resolution of the RAC in Szczecin, 2016). The legislator authorizes the municipal council to determine, by a resolution, solely the amount of remuneration for the collection, thus the commune council may not set the conditions for the payment of remuneration, including making it contingent on the collected fees being made on time, settlement of the collected fee handed in, invoice or bill issued. Neither has the commune council the power to determine the date of payment of the remuneration for the collection (Resolution of the RAC in Lublin, 2016).

Pursuant to Article 19 point 3 TLFA the commune council, by means of a resolution, may make other subjective exemptions from the payment of the advertising fee than those mentioned in the Act. Thus, the exemption may only include the subject of taxation (Decision by Voivodship Administrative

Court in Gdańsk, 2014). It is necessary to determine the exemption criterion through identification of the object, and not the subject of this exemption. In any case, if the established standards allows to establish who is subject to the exemption, this exemption is not of subjective nature present, which implies exceeding the statutory delegation resulting from the provisions of Article 19 point 3 TLFA (Decision by Voivodship Administrative Court in Gliwice, 2013).

The commune council may introduce the obligation to provide the tax authority having jurisdiction over the place of location of the advertising boards or devices with a declaration for advertising fee, as well as to specify the date, conditions and procedure for submitting these declarations. In such case, the commune council specifies the template of the advertising fee declaration form which shall include the data of the subject and object of taxation necessary to calculate and collect the advertising fee. The declaration form should contain the field in which the full amount of daily charge of advertising fee may be entered. Separate indication of each part (fixed and variable) of the fee is not enough (Resolution of the RAC in Lublin, 2016).

The power of the commune council also includes the possibility of introducing the method of filing the advertising fee by means of electronic communication. In particular, the commune council shall in such case specify by a resolution:

- the format of the electronic declarations and layout of the information and relations between them pursuant to the provisions on computerization of the entities performing public tasks (Act of February 17, 2005);
- the manner of declarations transmission by means of electronic communication;
- the types of electronic signatures the declarations should bear.

The local government tax authority's confirmation of filing the declaration for the advertising fee by means of electronic communication is executed in accordance pursuant to the provisions on computerization of entities performing public tasks. The official confirmation of receipt should provide for recognition of subsequent changes in the data included in the declaration concerning: the full name of a public entity, which was served with the electronic document; the date and time of entering or transferring the electronic document to the data ICT system of the public entity; the date and time of signing the official confirmation of the receipt by the addressee; the date and time of generating the official receipt confirmation.

## Final conclusions

The relatively short duration of the provisions on advertising fee makes local councils very careful in considering the possibility of introducing the public levy on its territory. Their main concern is the negative reaction of entrepreneurs and the real estate owners and other holders who can see introduction of the advertising fee as another tax burden on the business activity or the immovable property owned. It should be noted, however, that the legislator has introduced a special type of partial financial compensation, as the amount of the property tax paid on advertising board or device shall be credited towards the fee due on that advertising board or device. Thus, double encumbrance on the same subject covered by the real estate tax and advertising fee is avoided.

The current legal structure of the advertising fee, which is a type of a local public levy, as well as the powers of the municipal council constituting the power to levy allow to use this fee for the purpose of landscaping in accordance with the standards laid down in the European Landscape Convention. According to this act of international law, landscape plays an important role in public interest in the fields of culture, ecology and social issues and is a resource facilitating the economic activity. A properly planned, guarded and managed landscape can contribute to the civilization progress and the economic growth. The landscape contributes to the formation of local cultures and is an important element of the quality of life of the people inhabiting the urban and rural areas.

The fiscal features of the advertising fee should not therefore dominate other (non–fiscal) functions of this public levy. Determining, by resolution of the municipal council, the terms and conditions of locating street furniture, advertising boards, and devices and fences, their size, quality standards and types of building materials they can be made of can significantly contribute to minimizing the risks for landscape values and limiting the location of various advertising boards and devices in the public space in a virtually uncontrolled manner. The advertising fee should be solely an instrument for the enhancement of the effectiveness of such standards. Establishing such standards in a separate act of the local law is a prerequisite for the subsequent introduction of the advertising fee. For these reasons, it can be assumed that the advertising fee is of secondary nature in relation to the standards of landscaping at the local level.

This statement is confirmed by the analyses of the selected budgetary resolutions of the municipalities showing that the revenues from advertis-

ing fees represent a small share of the municipalities revenues in the total of their budget revenues. The budget of Duszniki–Zdrój Commune, the revenues from the advertising in 2016 (Resolution of the City Council in Duszniki–Zdrój, 2015) had been planned in the amount of PLN 12,000 and their share in total income of the budget (PLN 36.906.587) was only 0.03%. The planned revenues from advertising in the budget of Złotniki Kujawskie Commune (Resolution of the Commune Council in Złotniki Kujawskie, 2015) in 2016 amounted to PLN 30.000, while the total revenues of this budget amounted to PLN 27.163.819, which means the share of revenues from advertising fees amounted to 0.11%. The planned revenues from advertising in the budget of Świdnica Municipality (Resolution of the Commune Council in Świdnica, 2015) for 2016 had been planned in the amount of PLN 100.000, while the total revenue of the budget totalled PLN 62.291.743. The revenues from the levy thus constituted 0.16% of total revenue. The planned revenues from advertising in the budget of Szczawno–Zdrój Commune (Resolution of the City Council in Szczawno–Zdrój, 2015) in 2016 was PLN 110.000, while all budget revenues totalled PLN 27.597.560, thus the share of the proceeds from the fee in the total income was 0.40%. This share significantly increases in the budgets of municipalities with a relatively low amount of total income, e.g. the planned revenues from advertising in the budget of in the Municipality of Gogolin (Resolution of the City Council in Gogolin, 2016) in 2016. The revenue had been planned at PLN 16.300, while the total income of the municipal budget amounted to PLN 1.348.066. The revenues from the levy accounted for 1.21% of total revenues of the budget of the municipality.

In conclusion, the efficiency of this source of the commune's own revenues is relatively low. The commune governing body may, however, shape the spatial order primarily through the instruments of planning and spatial development, establishing by means of a resolution the standards for locating the advertising boards and devices, their size, quality standards and types of building materials they can be made of. The amount of advertising fees and possible exemptions may be no more than the supporting instruments for the applicable standards of planning.

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# Gmina Kozienice

Szanowni Państwo,

z prawdziwą przyjemnością przyjęliśmy rolę gospodarza i współorganizatora ogólnopolskiej konferencji naukowej „Finanse samorządu terytorialnego: organizacja, funkcjonowanie i kierunki rozwoju". Konferencja jest dla Nas doskonalą okazją do zacieśniania wzajemnych kontaktów, wymiany doświadczeń, może tworzyć również podwaliny przyszłej współpracy naukowej oraz wzmocnienia wspólnych działań na rzecz przyszłości samorządów terytorialnych.

Gmina Kozienice – z miastem będącym zarazem siedzibą powiatu – jest gminą o charakterze miejsko-wiejskim, zamieszkałą przez blisko 31 tys. mieszkańców. Rozwój społeczno-gospodarczy od wielu lat charakteryzuje się tendencją wzrostową, a gmina jest wiodącą nie tylko na terenie byłego województwa radomskiego, ale także obecnego województwa mazowieckiego. Przyjęty przez nas model zarządzania i wyznaczony kierunek działania przekłada się na wysoką ocenę Kozienic w różnorodnych, ogólnopolskich rankingach. I tak dla przykładu, rok 2014 „Ranking – sukces mijającej kadencji (2010–2014)" – Gmina Kozienice została oceniona jako 5. najlepiej rozwijająca się gmina w województwie mazowieckim, a 14. w Polsce. „Ranking – inwestycji w infrastrukturę techniczną" w 2003 r. pozycja Kozienic plasowała się na odległym 135. miejscu, a w 2014 r. na wysokiej 14. pozycji (na uwagę zasługiwał fakt, iż bez dotacji inwestycyjnych Kozienice zajęły 6. pozycję, co świadczy o dużej zdolności samodzielnego generowania rozwoju). W roku 2015 w „Rankingu wydatków inwestycyjnych samorządów 2013–2015" opublikowanym przez „Wspólnotę" Gmina Kozienice niezmiennie utrzymywała się w czołówce, zajmując 2. miejsce w województwie mazowieckim i 22. w Polsce (na 267 ocenianych miast powiatowych). Rok 2016 w „Rankingu zrównoważonego rozwoju Jednostek Samorządu Terytorialnego" Kozienice znalazły się na 7. miejscu na Mazowszu i 32. w Polsce, na 611 sklasyfikowanych gmin wiejsko-miejskich. Na uwagę zasługuje – co przy każdej okazji chętnie podkreślam – 1. miejsce na Mazowszu i 4. w Polsce, które Kozienice zajęły w ogólnopolskim, niezależnym rankingu tygodnika „Wprost", pt.: „Ranking gmin gdzie żyje się najlepiej".

Na wysokie noty i komfort życia mieszkańców bez wątpienia wpłynęły wieloletnia stabilność społeczno-ekonomiczno-polityczna i przemyślana strategia. Po 100% uporządkowaniu gospodarki wodno-ściekowej, inwestujemy w drogi, zagospodarowujemy place i skwery, budujemy oświetlenie, skupiamy się na sferach: edukacyjnej, kulturalnej, sportowo-

-rekreacyjnej, społecznej i zdrowotnej. Ostatnim przykładem jest chociażby najnowszy obiekt Centrum Kulturalno-Artystycznego, na budowę którego Gmina otrzymała dofinansowanie z UE w wysokości 22 827 554,56 zł, co stanowi ponad 50% kompleksowej wartości inwestycji i jest najwyższym dofinansowaniem w historii Kozienic. Na co dzień w Centrum swoje siedziby mają: Kozienicki Dom Kultury (z kinem, kawiarnią i telewizją lokalną „Kronika Kozienicka"), Mediateka – Filia nr 8 Biblioteki Publicznej oraz Szkoła Muzyczna I stopnia. Obiekt pełni nie tylko funkcję kultury, ale także sprzyja integracji społecznej mieszkańców całego subregionu radomskiego. Jest to miejsce edukacji artystycznej, organizacji wielu imprez kulturalnych, edukacyjnych, koncertów, pokazów filmowych oraz funkcjonowania licznych kół zainteresowań. W salach kameralnej i kinowo-koncertowej odbywają się przedstawienia teatralne, koncerty muzyczne, promocje autorskie, konferencje naukowe, wykłady dla Uniwersytetu Trzeciego Wieku, jubileusze kozienickich firm oraz spotkania z udziałem samorządowców z subregionu mazowieckiego. Przyciąga również kino. Pozyskiwanie ciekawych filmów, dostęp do ogólnopolskich premier, przenosi się na frekwencję, która na tle podobnych kin, wypada bardzo dobrze. Naszym zamierzeniem jest, aby obiekt stał się ośrodkiem wymiany informacji i współpracy subregionalnej województwa mazowieckiego, zarówno w dziedzinie szeroko pojętej turystyki, jak również kultury, nauki, gospodarki i biznesu.

Łaskawość losu usytuowała Kozienice w wyjątkowej Dolinie Środkowej Wisły, na granicy jednego z najbogatszych przyrodniczo kompleksów leśnych – Puszczy Kozienickiej. Wykorzystując walory przyrodnicze tworzymy warunki do rozwoju turystyki. Przez teren Kozienickiego Parku Krajobrazowego i otuliny, przebiegają trasy rowerowe, tereny do kolarstwa MTB, szlaki piesze oraz do nordic walking. W Centrum miasta zlokalizowane są m.in.: kryta pływalnia ze strefą odnowy biologicznej, lodowisko, skatepark, stadion sportowy, pełnowymiarowe boisko ze sztuczną nawierzchnią, hala sportowa, boiska wielofunkcyjne, stadnina koni oraz korty tenisowe. Nowoczesne obiekty gwarantują relaks i aktywne spędzanie wolnego czasu. Dopełnieniem wypoczynku jest malowniczo usytuowany nad Jeziorem Kozienickim Ośrodek Rekreacji i Turystyki, z ciekawą ofertą turystyczną i sportową oraz miejscami noclegowymi w pensjonacie, domkach campingowych i na polu caravaningowym.

Turystyczną perełką Gminy Kozienice jest Zespół Pałacowo-Parkowy. Na jego terenie znajduje się barokowy pałac zbudowany w latach 1778–91, który obecnie przechodzi kompleksową rewitalizację. Zespół zbudowano wg projektu Franciszka Placidiego, dla króla Stanisława Augusta Poniatowskiego. Z tyłu pałacu znajduje się park w stylu angielskim – „Najpiękniejszy Park Mazowsza" w roku 2013.

Dopełnieniem oferty Kozienic jest propozycja kulturalno-rozrywkowa. Rokrocznie gmina jest organizatorem ponad 200 imprez, których rodzaj i charakter dostosowany jest do różnorodnych gustów i grup odbiorców. Do najpopularniejszych należą Festiwal Muzyki Rozrywkowej im. Bogusława Klimczuka, Dni Puszczy Kozienickiej, Półfinał Narodowego Konkursu Piękna Miss Polski bądź Grand Prix Polski w Pływaniu.

Wierzę, że pobyt w Kozienicach będzie dla Naszych Gości ze wszech miar owocny i z chęcią do Nas Państwo powrócą, bo jak mawiają nasi Goście „Kozienice to miejsce, które potrafi zauroczyć".

z samorządowym pozdrowieniem
*dr inż. Tomasz Śmietanka*
Burmistrz Gminy Kozienice